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(HANSARD)

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House of Lords

Wednesday, 17 March 2010.

3 pm

Prayers—read by the Lord Bishop of Ripon and Leeds.

Health: Prescription Drugs
Question

3.06 pm

Asked by ***Lord Patel***

To ask Her Majesty's Government what plans they have to ensure that the supply of prescription drugs to patients is maintained.

The Parliamentary Under-Secretary of State, Department of Health (Baroness Thornton): My Lords, medicine supply problems can occur for a number of reasons, including manufacturing, regulatory problems and parallel trading. The Government work with drug companies, wholesalers and pharmacies on an ongoing basis to minimise the risks to patients.

Lord Patel: My Lords, over the past 12 months, 48 different medicines have been reported to be in short supply so that patients cannot get access to them. Some of these medicines are critical. A parallel market has developed, practised by pharmacies, wholesalers, dispensing doctors and even NHS hospitals. Eighteen hundred licence holders are allowed to export medicines out of the UK. What urgent plans do the Government have to stop this parallel market? We know that existing regulations do not seem to work, while regulations in some EU countries forbid some of the practices that exist in the UK.

Baroness Thornton: The noble Lord will know that parallel trading is a legitimate activity, but we take a very dim view of any NHS organisations indulging in it. We are concerned about whether it is having the effect on the supply of medicines that the noble Lord mentions. I am pleased to report that my right honourable friend Andy Burnham and the Minister, Mike O'Brien, held a summit with UK pharmaceutical supply-chain stakeholders to discuss concerns about the supply of medicines and agreed a package of urgent actions to address this issue to ensure that our patients continue to get the care that they need when they need it.

Lord Soley: I believe, from when I chaired the Intergovernmental Organisations Select Committee on pandemics, that we in the UK stockpile drugs, so am I right in saying that we always have significant amounts of drugs available? We have an impressive reputation around the world for our drugs supply, but we have to keep stockpiles as well as meeting domestic needs.

Baroness Thornton: My noble friend is right that there are stockpiles—the expression is "buffer stocks"—of essential medicines that we are building up for use in the event of pandemics or other major disruptions. The problem, as I am sure noble Lords will appreciate, is that feeding them back into the supply chain at the moment could have the opposite effect from what was intended, as it might encourage greater exporting. We are concerned not to increase the problem of parallel trading.

Lord Mawhinney: My Lords, the Minister has just told us that the Government take a dim view of this practice and the shortage of drugs. What does a "dim view" mean in reality? Who is held to account?

Baroness Thornton: We think that it is unacceptable and contrary to acceptable professional behaviour for any hospital to be taking part in this. We were aware of some anecdotal reports that hospitals were trading in medicines, so the Chief Pharmaceutical Officer wrote to all chief hospital pharmacists in July 2009 and to the NHS chief executive and Monitor in February. Hospitals and NHS organisations are in absolutely no doubt that we regard this practice as unacceptable.

Lord Cunningham of Felling: My Lords, does my noble friend accept that this is a particular problem for doctors' practices in rural areas, where they do their own dispensing and where often no other source of treatment is available for patients? Will she take an urgent and close look at this aspect of the problem?

Baroness Thornton: My noble friend raises an important point. This matter was discussed at the summit that I referred to and is being addressed by the stakeholders and partners that took part. He is quite right. I will undertake to ensure that we are taking action on rural pharmacies and I will write to my noble friend about it.

Baroness Barker: My Lords—

Baroness O'Cathain: My Lords—

Lord Hunt of Kings Heath: It is the Liberal Democrats' turn.

Baroness Barker: Will the noble Baroness explain how the outcomes of the summit will ensure that the supply chain of medicines in this country, which requires pharmacists to be able to receive medicines within 24 to 48 hours, will be resolved and restored?

Baroness Thornton: The participants in the summit were the Association of the British Pharmaceutical Industry, the British Association of Pharmaceutical Wholesalers, the National Pharmacy Association, the Pharmaceutical Services Negotiating Committee and the Medicines and Healthcare Products Regulatory Agency, or MHRA. They agreed with my right honourable friend the Minister a more explicit duty on manufacturers and wholesalers to ensure the supply, a series of targeted inspections by the MHRA, tougher standards for the issuing of licences for medical wholesalers and the development of a best practice guide on how supply difficulties should be dealt with by doctors, pharmacies, wholesalers and manufacturers.

Baroness O'Cathain: My Lords, according to the Minister, we were first worried about this in July 2009. The summit was held 15 days ago. Has there been any marked improvement over the last 15 days, as this is obviously an urgent problem?

Baroness Thornton: As I said in my original Answer, the supply of medicines has to be dealt with all the time and interruptions in supply can be for a variety of reasons. It has become apparent only over the last period that parallel trading, which is to do with the relationship of the pound and the euro, has become a particular issue that we particularly need to address. It is too soon to say what the effect of the summit will be, because it was only a few weeks ago, but I will certainly let the noble Baroness know.

Baroness Finlay of Llandaff: Is there a link between the department's early warning systems and the specialist medical groups so that alternative guidance can be enacted quickly, such as happened when diamorphine supplies ran out at very short notice and the specialist society rapidly produced alternative guidance? No patient complaints were received then because no patient was left in pain through a lack of diamorphine supplies.

Baroness Thornton: The noble Baroness points to a good example of how the system can work in different ways. We have officials who spend almost all their day making sure that the supplies of medicines are in the right place at the right time for the patients.

Baroness Masham of Ilton: My Lords, had some of the drugs that were sold on to other countries—these drugs may be for people with rheumatoid arthritis and cancer—already been bought by the National Health Service before being sold on?

Baroness Thornton: I am not absolutely certain about the answer to that question. Certainly, there is a list of 40 medicines, but that is 40 medicines out of tens of thousands of licensed medicines and out of millions of prescriptions. They include drugs for some of the conditions that the noble Baroness mentioned. I am not absolutely certain whether these were sold on by the wholesalers or the manufacturers direct. I will undertake to ask that question.

Health: Dementia

Question

3.15 pm

Asked By ***Baroness Greengross***

To ask Her Majesty's Government what progress they have made in implementing their dementia strategy launched in February; and how effective it has been.

The Parliamentary Under-Secretary of State, Department of Health (Baroness Thornton): My Lords, the Government have just completed the first full year of implementing the five-year National Dementia Strategy (NDS) to transform services for people with dementia. Progress has been made in many areas. Most recently, noble Lords may have noticed a public awareness campaign, including television adverts, designed to reduce the stigma associated with dementia.

Baroness Greengross: I thank the Minister for that encouraging reply. However, yesterday the Public Accounts Committee came out with some rather worrying figures. By the end of this month, every primary care trust and local authority will be required to have in place a joint action plan to implement the dementia strategy and to account for the money that has been allocated. It also reported that research into dementia has fallen by 7 per cent. Will the Minister give me an idea of the Government's response to this?

Baroness Thornton: It was always envisaged that the first two years of the dementia strategy would be gearing up, as it were, for full implementation. Sixty million pounds has been made available to PCTs in the first year. We are assessing how that is spent and what it is spent on, and will report back on that. We are piloting and evaluating a variety of different projects. I was very surprised to learn that research funding had fallen because the money is there to spend on research. We need a volume of applications for dementia proposals to come forward so that research can be undertaken. My honourable friend Phil Hope has set up an advisory group on dementia research which we hope will develop practical ways of working together to increase the volume and quality of dementia research. I hope that when we have this discussion in a year's time I will be able to report an increase in research spending.

Baroness Turner of Camden: My Lords, why are people with dementia staying too long in hospital? Does the dementia strategy recognise this problem and how to resolve it?

Baroness Thornton: The House has discussed this matter several times. We certainly recognise the need to improve the quality of care for people with dementia in general hospitals and to improve the training of those who deal with people with dementia in hospitals. This is one of the seven priority areas for urgent action in the dementia implementation plan.

The Earl of Onslow: My Lords, the Alzheimer's Research Trust, of which my wife is president and in which I take a very serious interest, has produced figures in the very recent past showing that the cost of Alzheimer's to society as a whole is a staggering £23 billion. I am not sure whether I have remembered that correctly, but the figure is astronomical. It is going to get worse because people with Alzheimer's are living longer and need carers. The relatives of those with Alzheimer's cannot earn a living because they have to be carers. This research to find out what to do and to be aware of the cost is essential. Is the noble Baroness aware of that? I hope that she is.

Baroness Thornton: We certainly are. The overall annual economic burden of dementia is estimated to be £14.3 billion a year. This is a huge cost. The direct cost to the NHS is £8.2 billion a year. I pay tribute to the work of the Alzheimer's Society, which is a very important partner in the delivery of a dementia plan. Its reports have helped to point us in the right directions as regards the major priorities for research, as has the Alzheimer's Research Trust.

Baroness Howe of Idlicote: My Lords—

Lord Ashley of Stoke: My Lords—

Lord Hunt of Kings Heath: Let us hear the noble Baroness first, then my noble friend.

Baroness Howe of Idlicote: Can the Minister give us any idea of how high a priority will be given under the dementia plan to carers' need for respite when their caree, as it were, is living exclusively at home?

Baroness Thornton: We know that carers play a vital role, and supporting them is a very important priority. That is why we launched the 10 year cross-government strategy to support carers. The noble Baroness will be aware that the new national care service White Paper, which will be with us shortly, addresses the issue of carers and how we can best support them in the very important work that they do in supporting not only people with dementia but a very large range of elderly people and those with other disabilities.

Lord Ashley of Stoke: When my noble friend says that progress is being made, can she be more specific?

Baroness Thornton: In the first two years we have appointed a clinical director, so the leadership that we require at hospital, local and regional level is very close to being in place. We have 40 demonstrator sites, which are where social services and healthcare services work together to produce local plans on the best way of dealing with people with dementia. Those are in place and will roll out in the fullness of time next year. We have also issued guidance on commissioning services for people with dementia. Noble Lords will be aware that we also commissioned the anti-psychotics report that was published in November last year, and are deciding what to do with it. Those are four areas where progress has been made.

Gypsies and Travellers

Question

3.22 pm

Moved By ***Baroness Whitaker***

To ask Her Majesty's Government why they have decided not to implement the provision in the Housing and Regeneration Act 2008 to extend security of tenure on local authority Gypsy and Traveller sites to that enjoyed by other caravan dwellers under the Mobile Homes Act 1983.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): My Lords, Her Majesty's Government remain committed to bringing security of tenure to local authority Gypsy and Traveller sites and to do this by implementing Section 318 of the Housing and Regeneration Act 2008. Statutory instruments will be laid as soon as parliamentary time is available.

Baroness Whitaker: I thank my noble friend for that Answer. I know he intends to be helpful, but does he agree that the promise to give security of tenure—crucial to the education and health of Gypsy children—has just been dropped off the list of things to be done before the election because no one thinks that it matters enough? My noble friend has got two other statutory instruments under the same Act this afternoon. Does he also acknowledge that a very simply statutory instrument, a quarter of a page long, could speedily be brought in to cover just this one point, thus incidentally, also satisfying the letter from the Joint Committee on Human Rights?

Lord McKenzie of Luton: My Lords, I acknowledge the role that my noble friend plays as an effective and consistent campaigner for the rights of Gypsies and Travellers. I share her disappointment that it is not going to be possible to bring forward this statutory instrument before the general election but emphasise that the Government remain committed to doing so. As to the alternative proposition, that we could achieve what is required by a fairly straightforward and shorter instrument, the Government's view is that it would not have allowed the changes to assignment and the others requested in the consultation we undertook to be applied retrospectively to existing agreements once the Mobile Homes Act was applied to those agreements. We do not believe that the alternative is effective.

Lord Graham of Edmonton: My Lords, does the Minister acknowledge that there continue to be great disparities between those who live in bricks and mortar houses and those who live in mobile homes or on caravan or Gypsy sites? Can he give an assurance that despite the pressures on the department the interests of those who live on Gypsy sites will be borne in mind? Will he give a commitment to try to iron out the disparities between those who live in bricks and mortar houses and those who find their housing by other means?

Lord McKenzie of Luton: My Lords, the purpose of the consultation on these proposals was to seek to align the position of Gypsies and Travellers on local authority sites with other caravan dwellers on private sites or in park homes. That is the particular consistency we are seeking to achieve through these propositions.

Lord Avebury: My Lords, first, can the noble Lord give any examples, other than that of the case of Connors, where the Government have ignored a judgment of the European Court of Human Rights for six years, after having been reminded three times by the Joint Committee on Human Rights? Secondly, on the second question put by the noble Baroness, has the Minister had a chance to look at the draft statutory instrument we sent him just before the House convened, and why does he say that it is impossible to deal solely with the question of security of tenure to enable us to comply with the judgment?

Lord McKenzie of Luton: My Lords, we are not ignoring this very important issue, which is why we introduced Section 318 into the 2008 Act. The reason a more straightforward statutory instrument would not work is a bit complicated, but basically the noble

[Lord McKenzie of Luton]
Lord will be aware that we consulted on a range of issues that needed to be addressed with the support of local authorities and the Gypsy and Traveller community and agreed to introduce new implied terms into the Mobile Homes Act. To make sure that any changes apply to existing agreements as well to new ones, we need to use the transitional provisions in Sections 321 and 322 of the Housing and Regeneration Act 2008. Those can be introduced only as a consequence of bringing in Section 318. If we separated these two things, we would not be able to achieve the primary objective of making a broader range of adjustments to the Mobile Homes Act which the Gypsy and Traveller community wanted and local authorities think are important. It would be possible to separate and deal with issues of security of tenure, but then we would forgo those other opportunities. That was not the proposition on which we were consulted and we feel that we could be subject to legal challenge on it.

Earl Cathcart: My Lords, in January last year there were a massive 1,276 unauthorised Traveller sites that have to be tolerated due to the special treatment given to them; a further 1,086 sites on Travellers' own land that were not tolerated; and a further 1,315 unauthorised sites on other people's land. Will the Government give councils which have provided authorised sites stronger powers to tackle unauthorised development and illegal trespass?

Lord McKenzie of Luton: My Lords, I would not accept the proposition of "special treatment", which I think was the noble Earl's phrase. We believe that the framework we have in place in terms of enforcement and encouragement of the identification of provision of sites to be the right one, and that is what the task group basically supported. The noble Earl has, however, partly put his finger on the issue that so long as 20 per cent of people living in caravans have no authorised place to stay, there are going to be these ongoing challenges. It is therefore important that local authorities go through their requirements to identify and bring forward additional sites. A statistic that surprised me when I read the brief is that across the country, it would take in aggregate no more than one square mile to accommodate all the additional authorised sites we would need.

The Lord Bishop of Ripon and Leeds: My Lords, does the Minister accept that Gypsies, Travellers and Roma are almost invisible recipients of racial prejudice in this country, and will he work with colleagues, particularly in the education and justice departments, to ensure that appropriate provision is made for this often ignored minority ethnic group?

Lord McKenzie of Luton: My Lords, I fear that that proposition is right, which is why the Government are seeking to ensure, through a range of measures, that we support these groups. They are covered by the Equality Bill, which is just finishing its passage through your Lordships' House and we addressed them quite recently, for example, in the context of the Child Poverty Bill. The right reverend Prelate has rightly identified issues around health and education, and it is important that we move forward with measures to deal with them.

Armed Forces: Journalists

Question

3.29 pm

Asked By ***Lord Astor of Hever***

To ask Her Majesty's Government whether they will prohibit journalists embedding in United Kingdom military units in Afghanistan during the general election campaign.

The Minister for International Defence and Security (Baroness Taylor of Bolton): My Lords, first, I am sure that the whole House will wish to join me in offering sincere condolences to the families and friends of Corporal Richard Green of 3rd Battalion The Rifles, Rifleman Jonathon Allott of 3rd Battalion The Rifles, Rifleman Liam Maughan of 3rd Battalion The Rifles, Lance Corporal Tom Keogh of 4th Battalion The Rifles, part of the 3 Rifles Battle Group, and Corporal Stephen Thompson from 1st Battalion The Rifles, part of the 3 Rifles Battle Group, as well as the three soldiers who have not yet been named from 1st Battalion The Royal Anglian Regiment, who have been killed recently because of operations in Afghanistan.

On the Question, it is the Cabinet Secretary's responsibility, not Ministers', to issue guidance to government departments on their activities during the election period, including how they should communicate. Guidelines have been agreed between officials in the Cabinet Office and in the Ministry of Defence about the implications for reporting on operations to ensure that facts about events in Afghanistan can continue to be made public. As during the 2005 general election, some restrictions on visits to theatre will apply.

Lord Astor of Hever: My Lords, I associate these Benches with the Minister's condolences to the families and friends of the riflemen and the three soldiers from the Royal Anglian Regiment. On the Question, this war is of national importance and the British public have every right to know what is happening, including the many acts of heroism. Sixteen servicemen have received the Conspicuous Gallantry Cross and scores more the Military Cross. Are the Government gagging the press for fear that they may uncover inconvenient truths that are damaging to new Labour during the election campaign?

Baroness Taylor of Bolton: My Lords, I regret the comments of the noble Lord. The experience of recognising the gallantry of those who are fighting in Afghanistan should unite the whole House and not divide us. As I said in my opening remarks, the guidelines are not issued by Ministers and the decisions are not taken by Ministers; they are taken by the Cabinet Secretary and his officials. The Chief of the Defence Staff has said clearly that no one within the military—anyway, it would be against Queen's Regulations—should be undertaking any activity that could call into question political impartiality. It is in the interests of the armed services that no one calls their impartiality into question.

Baroness D'Souza: My Lords, on behalf of the Cross Benches, I add to the condolences expressed by the Minister. Can the Government find a way of

encouraging journalists to cover those areas of Afghanistan where economic and social progress is undoubtedly taking place?

Baroness Taylor of Bolton: My Lords, the noble Baroness makes a good point, which the whole House could support. It is clear that what we are doing in Afghanistan is not just a military operation; it is also about ensuring long-term stability. That is dependent on the comprehensive approach, which includes looking at the economic and social progress that many people are trying to bring into effect. Those who are working in that area deserve our recognition also.

Lord Lee of Trafford: My Lords, I enjoin these Benches in the earlier tribute. Can the Minister say where this nonsense is going to end? Is it the intention of the Government to gag the military commanders in the field in some way during the election campaign? Is it not an insult to our forces, who during the campaign will be laying their lives on the line for us, not to have the normal continuous reporting that we have got used to? Should not the Prime Minister and the Defence Secretary stop sheltering behind the Cabinet Secretary and reverse this wholly untenable and unacceptable position?

Baroness Taylor of Bolton: My Lords, the noble Lord is asking us as Ministers to interfere in an area where Ministers should not make and are not making decisions. The guidelines would be political were they being imposed by Ministers. It is an insult to suggest that the picture that the noble Lord presents is the case. The Chief of the Defence Staff has made it clear that his military people can continue to brief on progress with operations, can release factual information and can maintain blogs from operational theatre. However, they must stick to factual information only. Those guidelines are not ministerial. They are supported by the military and they are decided by the Cabinet Secretary and officials. I believe that they point us in the right direction.

Lord Ramsbotham: My Lords—

The Earl of Onslow: My Lords—

Lord King of Bridgwater: My Lords—

Noble Lords: King!

Lord King of Bridgwater: My Lords, perhaps I, too, may express my condolences not just to those who have lost their lives in the recent tragic incidents, but to the seriously injured, whom we often forget. They are brought back and, with the wonders of medical science, are able to pick up their lives, but they are very seriously wounded. I hope that we never forget them.

I think that the noble Baroness is profoundly mistaken. As somebody who had to endure certain problems with the press embedded with our forces in the first Gulf War, I none the less took the view that they must always be allowed to report. While the Cabinet Secretary is admirable in giving his guidance, there is a Government with Ministers, who can discuss this in advance of the election with the leaders of the opposition parties. I am sure that that would be in the interests of the country. The noble Baroness must realise that, otherwise, the most unfortunate impression is given, which I am sure the Cabinet Secretary Gus O'Donnell did not wish to achieve, that the intention is to create a blackout during the election period. That would give quite the wrong impression to the country.

Baroness Taylor of Bolton: My Lords, that impression is given only by those who want to give it. The clarity of the guidelines that have been drawn up will ensure that there is direct reporting on a factual basis from those in the military who know what is going on on the ground. General Messenger's briefings in London will continue. They will be on a factual basis and that is the way it should be. We should be wary of allowing political interference. That is why it is right that Ministers should not be involved in these kinds of decisions.

Let me take up the other point that the noble Lord made, which was about recognising those who have been seriously injured and the wonders of science that have kept them alive. We have seen this week some of those scientific wonders, with someone seeing through their tongue. It is appropriate to recognise the progress that is being made and the contributions of those who have sacrificed much of their future in many ways.

Commons Councils (Standard Constitution) (England) Regulations 2010

Charities (Disclosure of Revenue and Customs Information to the Charity Commission for Northern Ireland) Regulations 2010

Safeguarding Vulnerable Groups Act 2006 (Controlled Activity and Miscellaneous Provisions) Regulations 2010

Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2010

Safeguarding Vulnerable Groups Act 2006 (Regulated Activity, Devolution and Miscellaneous Provisions) Order 2010

Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) Regulations 2010

Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) (Amendment) Regulations 2010

Motions to Refer to Grand Committee

3.37 pm

Moved By ***Baroness Royall of Blaisdon***

That that the draft orders and regulations be referred to a Grand Committee.

Motions agreed.

Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010

Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010

Motions to Approve

3.37 pm

Moved By ***Lord McKenzie of Luton***

That the draft orders laid before the House on 20 January and 3 February be approved.

Relevant documents: 8th Report from the Joint Committee on Statutory Instruments, considered in Grand Committee on 8 March.

Motions agreed.

Taxation (International and Other Provisions) Bill

Third Reading

3.38 pm

Bill passed.

Consolidated Fund (Appropriation) Bill

Bill read a second time. Committee negatived. Standing Order 46 having been dispensed with, the Bill was read a third time and passed.

Personal Care at Home Bill

Report

3.39 pm

Clause 1 : Free provision of personal care at home

Amendment 1

Moved by ***Baroness Campbell of Surbiton***

1: Clause 1, page 1, line 20, at end insert—

"( ) impose on local authorities duties relating to the portability of the free provision"

Baroness Campbell of Surbiton: My Lords, the House will recall that, in Committee, I tabled a similar amendment calling for arrangements to be put in place to ensure that recipients of free personal care are guaranteed seamless support in the event of moving from one local authority to another. My concern has been to ensure that no one's human rights are compromised by avoidable interruptions or breaks in care-support funding. People with critical-plus needs are potentially in a very vulnerable situation when they move. They need to know that there will be no hiatus in their free personal care provision. Hiatuses are, unfortunately, all too common in the current system, and cause extreme stress and hardship.

I have witnessed situations when care funding has stopped for nearly six months, while a severely disabled person renegotiated a similar care package in his new local authority. This person was not only forced to make all his assistants redundant—they were due to move with him while he looked for new staff locally—but he was left with absolutely no money to pay for backup care in his new home. He managed to scrape by, by taking a loan out and praying that family and volunteers would just about cover the costs. He survived the journey but, due to the stress and disruptions to care on top of the anxiety we all go through when moving, others have not. Even a few weeks' delay or uncertainty can be dangerous for this group of people with personally challenging disabilities or illnesses.

This Bill attempts to create some of the foundations of a future national care service. One important feature of this modern service will be to provide universal consistency and portability of care. Therefore, it seems vital to me to seize this opportunity to test how we can deliver portability in practice. The noble Baroness, Lady Thornton, said in Committee that the Government would take this issue away with a view to making appropriate provision for transitional protection in regulations. I am very pleased to inform noble Lords that she has been true to her word. It feels like I and my colleagues from the Royal Association for Disability Rights—RADAR—have been locked in a room with officials for weeks, looking for the very best and clearest way to actualise the portability policy intent. This has been a complex and challenging task. Noble Lords will know that community care law is plentiful and tortuously complex.

3.45 pm

I am pleased to say that we have emerged with what I think are clear and robust enforceable regulations and directives. I am very much indebted to the Minister for her passion and determination to find a workable solution, and to her officials who have worked with me in the true spirit of co-production, which is extremely hard to get right. We have been working on it for many years. I also acknowledge and thank Luke Clements, who gave me excellent legal advice, and RADAR for its usual high standard of support and knowledge. Finally, I am very grateful, as always, for the strong support this issue has received from all sides of the House. I know that the noble Baronesses, Lady Barker and Lady Williams, share my passion to extend this freedom of movement to the most disabled in our society.

My purpose in retabling this amendment is to ensure that the Government can set out on the record the fruits of our deliberations and the shape of future regulations. We must have it on the record. I shall say no more now because the Minister will doubtless give a full exposition in her response. I beg to move.

Baroness Barker: My Lords, I am very happy to support the noble Baroness, Lady Campbell, on an issue which has been debated in this House many times. It is a shame that it has taken such a long time to come to a successful conclusion.

As the noble Baroness, Lady Campbell, suggested in her speech in Committee and today, one of the deepest concerns of people who move from one area to another is the time lapse between assessments. Often their needs are urgent and have not changed, but the process of assessment delays their receipt of care. I am grateful to the noble Baroness, Lady Thornton, for the letter that she sent the other day, in which she made it explicit that there will be a continuity of service pending an assessment by the receiving authority. It should not be incumbent on a receiving authority to carry out an assessment in all cases. Will the Minister clarify that I am right that under the provisions of the Bill and the regulations it will be possible for people to move and for it to be accepted that their needs remain the same? We would not want to put people through an unnecessary process of assessment, which would just waste everybody's time. That is the point of clarification that I wish to hear.

The Parliamentary Under-Secretary of State, Department of Health (Baroness Thornton): The noble Baroness, Lady Campbell, has tabled this amendment, supported by the noble Baronesses, Lady Wilkins and Lady Barker, to discuss once again the important matter of portability of care. It is an issue on which she has long campaigned with great determination, and which she again described most eloquently.

Of course, we recognise the potential for disruption to patterns of care, which can be the reality for a disabled person who moves from one local authority to another. The issue is addressed in the forthcoming White Paper as one of the long-term challenges of the care system.

Further to our confirmation in Committee that we would include provision to effect transitional protection in regulations, as the noble Baroness said, I am pleased to confirm that I believe that we can now achieve what has been long proposed: portability of the free personal care element of a package of community care services when someone moves from one authority to another for a transitional period.

In other words, where a person in receipt of free personal care moves from one authority to another, they must continue to be provided with the same package of free personal care as they had before their move, until the new authority has assessed their needs for community care services and decided what services to provide in the light of that assessment. They do not need to make that assessment; that is for them to decide.

That will be achieved through a combination of the regulations enabled by the Bill and the issuing of separate directions made under Section 7A of the Local Authority Social Services Act 1970. Just saying that shows that not just me but the noble Baroness, her advisers and our officials have been closeted together for the past few weeks to reach this solution.

The directions will impose a duty on both the authority providing the free personal care and the authority to which the person moves to co-operate to ensure that personal care of the same type and level provided by the first authority continues to be provided without interruption. That provision will continue until the new authority has carried out an assessment under Section 47(1) of the National Health Service and Community Care Act 1990 and decided what services need to be provided.

The regulations will provide that where a person in receipt of free personal care moves from one authority to another, and the new authority is providing them with personal care before an assessment of their eligibility for free provision is carried out, the new authority must provide the personal care free of charge until an assessment of eligibility for free care has been carried out.

I am very grateful to the noble Baroness and to her advisers at RADAR for all their hard work with us on the draft regulations and directions, and for giving us a further opportunity to demonstrate the move towards a future national care service. Subject to her satisfaction with our proposals, I would ask that the amendment be withdrawn.

Baroness Campbell of Surbiton: I thank the noble Baroness, Lady Thornton, for setting out so clearly the positive impact that this will have on the life chances of those with critical-plus needs. It has been a very interesting, long and challenging journey. The right of portability and clear directions on how it should be executed seamlessly must not be underestimated. Disabled and older people will be absolutely delighted with what has been achieved in this House today. It will give them more hope for the tricky times ahead. This is indeed the first step towards the fairer national care and support system that we are looking for. I believe that it has been taken very seriously. Therefore, I am delighted and beg leave to withdraw the amendment.

Amendment 1 withdrawn.

Amendment 2

Moved by ***Lord Best***

2: Clause 1, page 1, line 22, at end insert—

"( ) not be made before 1 April 2011"

Lord Best: My Lords, the amendment would postpone the start date for free care at home for those with high levels of care needs. I declare my interest as president of the Local Government Association. The amendment reflects the concerns of local authorities about the timetable for this measure.

The anxieties of the local authorities which are being asked to deliver the new arrangements are of two kinds. First, there is the worry that they cannot get arrangements to help 400,000 people in a new way up and running in the next few months. These months will include local, as well as national elections, with possible changes of local leadership and local policies, and which also cover the weeks of the summer holidays. Secondly, local authorities are concerned that their budgets have already been set for 2010-11 and cannot, at this stage, take the hit of an extra £125 million which they are expected to find by way of cuts in other

[LORD BEST]

areas. It may be much more than £125 million if, as the Association of Directors of Adult Social Services—ADASS—calculates, the government figures are a serious underestimate.

This is in no way a wrecking amendment. If it finds favour with your Lordships, the measures in the Bill would simply be implemented at a later date. At earlier stages, I have praised the positive aspects of this Bill, and I know it is supported by a number of charities with which I have connections. However, it is not sensible to proceed at a pace that local authorities believe is unfair and unreasonable. After all, central government depends on the hard work and good will of local authorities for the delivery of the Bill's provisions; alienating those who will have to make it work would be a bad start. Nobody wants this new initiative to be a shambles on 1 October, discrediting its principles and antagonising those it should help.

The Minister has been unfailingly courteous and willing to listen throughout the progress of this legislation, as demonstrated in her support for the excellent portability clause pressed so successfully by the noble Baroness, Lady Campbell. She has written to all Peers with an interest in the Bill to offer a concession on the timing of the programme for delivering free care. She has said that if there are delays in local authorities processing all the thousands of assessments for eligibility for free care, then those individuals whose claims are eventually agreed will have the costs of care backdated to the date on which they applied, even though they were not assessed for some time thereafter. This is indeed a helpful concession, and would alleviate some of the pressure when people start to apply for eligibility assessments.

I have asked the Local Government Association whether this concession would make a significant difference to the administrative burden it faces. The LGA has responded that despite the very welcome efforts of the Minister, this help would not do the trick. The concession does not negate the need for councils to have completed a vast range of preparatory activity by 1 October. This activity includes: taking action on such matters as impact assessments of free personal care on other related policies; undertaking financial modelling and making changes to current charging systems; conducting equality impact assessments and implementation planning; carrying out an awful lot of training in the new assessments; introducing, testing and ironing out the bugs in new IT systems and reporting procedures; setting up and market-testing contracting arrangements with providers; communicating with the general public through an information and communication drive with new publicity leaflets; and all the rest. It would be wrong to assume there will be any less pressure on councils to complete all these tasks by 1 October simply because they can backdate an individual's entitlements.

This brings me to the question of whether, irrespective of the problems of getting the administrative arrangements up and running by 1 October, local authorities can be expected to find the money for this scheme during the financial year that is just about to start. Councils have already set their budgets and council tax for 2010-11, and are already having to make hefty efficiency savings. The Government have given a pretty good idea of the amount each authority will get from the Department of Health to pay for free care, and local authorities must make up the balance, estimated at £125 million for the half year and £250 million next year—but perhaps much more if the figures used by the Government are wrong.

4 pm

Some way down the line, there may be savings from the Bill's provisions. For example, fewer people may pay their way and go into residential care, but their money may run out and the council will be required to pick up the bills. If these people are helped to stay at home for longer, public spending at a later date could be avoided in some cases. However, local government expects no such offsetting savings for a couple of years, and everyone agrees that extra money must be found as soon as the new system kicks in. Indeed, Sir Jeremy Beecham at the LGA believes that imposing these new duties on local authorities without fully funding them or lifting other obligations from them violates the new burdens doctrine that was agreed between central and local government. How are local authorities to shoulder this extra financial burden when they are already making significant economies and their social care budgets are under huge pressure?

Even if staff are made redundant, costs in the first year are likely to be higher, not lower, because of redundancy arrangements and the rest, and I am sure that the charities, which want to see help going to those who currently pay for care as soon as possible, would not be happy if this help were at the expense of others who also need social care. As the Equality and Human Rights Commission says:

> "It is difficult to see how local authorities could meet the cost of this measure from efficiency savings, without any detriment to social care services and other local services".

It is not justifiable to require local authorities to rob Peter to pay Paul, to redo budgets or to revisit council tax levels after the financial year has begun. Surely it is better to take this at a sensible pace and look at a start date of next April. I am therefore grateful to the Minister for her letter and her endeavours to help to ease the burden on councils which the current timetable certainly imposes, but surely the local government sector has right on its side when it says that it is unreasonable and unfair to require councils to implement and to pay a substantial share of the costs of the new arrangements from 1 October this year. Let us agree to postpone implementation, as set out in Amendment 2. I beg to move.

Lord Warner: My Lords, I support this amendment, to which I have added my name.

I agree entirely with everything that the noble Lord, Lord Best, has said. As noble Lords know, I am no great fan of this Bill, which I regard more as a cul-de-sac than a stepping stone or bridge to a reformed system. However, even if I supported this Bill, I would still press this amendment on the Government to save them from spoiling their own creation through poor implementation.

This is not a wrecking amendment; it is simply recognition of the realities of implementing a complex new scheme of assessment alongside other existing

schemes of assessment within six months. Given the vulnerability of the people involved and the need to take account of carers' needs, it will be impossible to put into place a properly trained and prepared workforce in the time that is left between now and October across all local authority areas. The Government now seem to recognise this fact of life to some extent in the letter of 12 March from the two Ministers, but they cannot quite bring themselves to take the next sensible step of deferring implementation until they can be confident that all local authorities can implement the new scheme properly. In wilfully pressing on, the Government are choosing to ignore sound professional advice from those who have to administer the scheme. All this will do is create an administrative shambles that damages service users, carers, local authority staff and, indeed, the Government's own reputation.

This lack of preparedness has led the Association of Directors of Adult Social Services to make it crystal clear to the Government for a long time that the new system cannot be implemented in October. In replying to the Government's consultation, on page 3 of its response, it said:

"ADASS believes that the timescales proposed by the Government are unreasonable and will lead to significant problems with the implementation of the Bill".

It reiterated that position in a letter to me of 15 March, which it has copied to Ministers, and which we have tried to make available to all Peers. The Government are simply ignoring clear advice from the people who will be held accountable for implementing the new system. This, in my judgment, is irresponsible. I hope the Government will accept this amendment.

Baroness Pitkeathley: My Lords, I, too, have a great deal of sympathy with what the noble Lord, Lord Best, has said. He is absolutely right that we should not willingly antagonise those who are the providers of care, because the best care has always been the result of good partnerships between the local authorities, the health providers and—most importantly—the users and carers. It is because of their needs that I cannot support the amendment. I am thinking of the 140,000 families—a number estimated by Carers UK—who would be denied free personal care if we delayed, of the 65,000 people who would not benefit from the reablement which they might have been able to access, and of the older and disabled people going into residential care, when that could have been prevented. As we are often reminded, most people want to stay in their own home.

Therefore, although we have duties to the local authorities and to the workforce, we also have duties and responsibilities to the biggest providers of care—the carers—and the users. For that reason, we should try to reach a compromise of the kind the Minister has very helpfully suggested. I remind the House that, in response to what the noble Lord, Lord Warner, said, we are not actually starting afresh with the workforce. Let us acknowledge that many of the social care workforce are already extremely experienced in assessment and all the other areas of need that are required to implement such legislation as this. So I hope we will be able to find a compromise on this very important point.

Baroness Barker: My Lords, I share exactly the same concerns as the noble Baroness, Lady Pitkeathley, but I am afraid that I have come to exactly the opposite conclusion for the very same reasons. My reasoning is based, to a large extent, on the work I have done over the past year with a number of local authorities and, more importantly, a number of voluntary organisations.

I always think it is worth pointing out what is going on right now in world of social care. Local authorities and voluntary organisations—the key providers of information and support to the recipients of this care—are currently dealing with large-scale tendering of services, in many cases for the first time, and, at the same time, implementing the personalisation agenda. That is having a huge and immediate impact on the process of assessment and resource allocation.

A number of councils—some of the most enthusiastic for the personalisation agenda—have been moving towards implementation of care brokerage. Even the most advanced councils that I know of, such as Kensington and Chelsea or Richmond in west London, are in the early stages of pilot schemes which are funded for one year and have not yet been evaluated. At the same time, local authorities are achieving the very same efficiencies that we are supposed to believe they will be using to fund the implementation of this Bill, in ways that will also have a direct impact on it. They are tendering information and advice services on a generic basis. I am sorry because this is a very "anoraky" argument, but previously, information and advice services were largely provided on a client-group by client-group basis. But they are not now: they are being generically tendered for all adults over the age of 16. People with mental health, drug and alcohol problems, physical disabilities and carers will all be in the one contract. That will be a huge change, particularly for providers of information and advice. The information, advice and support services, which are always needed to make any change of this sort work—and they will be needed to make this work—are in turmoil. For that reason the noble Lord, Lord Best, is right.

I am not always particularly enamoured of provider arguments about their being overloaded, but these people in local authorities have a strong argument. A huge amount of change is going on. For example, seven local authorities in west London are coming together to tender all their information and advice services as one in order to achieve the economies that they are having to make. I hope noble Lords will understand that on the ground that is a monumental change. There will be a change of personnel and a change of practice. If this change goes ahead, there is a risk that a large number of people will not get this service to which they are entitled and will get no service at all because there is such confusion.

Notwithstanding the will of people to make services work better, more efficiently and in a more personalised way, I say to the Minister that whatever the intent of the Government the timing could not be worse. For that reason I support the argument put forward by the noble Lord, Lord Best.

Earl Howe: My Lords, I warmly support all that has been said in support of this amendment by its other movers. No one who has spoken to local government

[Earl Howe]
as I have can possibly be in any doubt of the appalling predicament in which many councils now find themselves as they face the prospect of having to implement this Bill. Not only do they not know where the money will come from, they do not even know how much money, ultimately, they are likely to have to find.

They also argue, as I do and as the noble Lord, Lord Best, does, that this scheme is a new burden and therefore constitutes a blatant breach of the Government's own undertaking to local government not to impose such burdens. In Committee, the Minister made light of these concerns. She seemed to be saying that there was plenty of money around and that it could be found from efficiency savings if people would only put their minds to it. She also dismissed the idea that the policy represented a new burden.

It is important to expose those arguments for the nonsense they are. New burdens are new tasks imposed on local government which are not fully funded. Free personal care at home is a new task imposed on local government and will be only partly funded. It is not any use the Minister saying, as she did in Committee, that the 4 per cent efficiency savings which councils have to make next year leave plenty of room to meet the costs of the scheme.

The term "efficiency savings" means that you take money away from a local authority's spending total without damaging the services that are provided. Local authorities are therefore being asked by the Minister to spend money which, by definition, they do not have. It seems to me that that is a curious sort of sophistry. It may be that the line the Minister meant to give was that given by her colleague, John Denham, in another place, who indicated that the efficiency savings required were to be over and above the already budgeted 4 per cent savings.

We need to be clear how unrealistic that is. In many local authorities, it is impossible as of today to identify where such additional savings might come from. It is true that some local authorities will need to find comparatively small sums, but others will be landed with an instant and very large bill—I refer to those local authorities where a high proportion of those who are currently receiving personal care are funding that care themselves. It is irresponsible for Ministers to dismiss the acute funding problems that those councils are facing at a time when they have already finalised their budgets and the council tax for next year. I believe that it is the Government's responsibility and ours in this Chamber to recognise practical reality and to back this amendment.

4.15 pm

Lord Sutherland of Houndwood: My Lords, I wish to support this amendment for all the good reasons given by my noble friend Lord Best and others, but I do not wish to see this Bill sunk. I wish to see some handcuffs on the Bill and of the options among the amendments, this seems to me the most elegant set of handcuffs. It has the advantage that it will have, at least, a way of dealing with the initial—and real—concerns of local authorities, and the problems not just of cash but of the provision of services in such a short time.

I think, however, that the best thing about the Bill is the direction of travel and I would not wish to see that lost. The advantage of this amendment is that if the Bill were to go through, it would give every incentive to an incoming Administration of whatever political hue—even if it were a coat of many colours—to seek the consensus which everyone in this House hopes will be the basis for real future planning in this very important area. For this reason I hope this amendment will be moved and passed.

Baroness Finlay of Llandaff: My Lords, listening to this discussion I find myself slightly confused because it strikes me we are moving from a situation where there would be a sudden implementation date. However, the Minister's reassurances suggest that local authorities will have somewhat of an ease-in, ease-out option. I certainly do not deny the stress on local authorities—the fact that they are suddenly facing a great deal of work—but I am also well aware that there are desperately worried users and their carers who are faced with the question of whether they must move from their own homes or whether they are able to sit it out. It is a desperately important issue for them.

I am aware also that it is human nature to start knuckling down to implementing change only when the deadline is looming—whenever that deadline is. I cannot help feeling that with some of the work that must be done, there is a point where one just has to say that you need to get on and do it. The assessment processes are, by and large, already worked through. The professionals are already assessing patients; certainly the systems have to be worked through and must be streamlined so that they are fair.

It would help me greatly if the Minister could confirm my understanding from her reassurance—that there is now somewhat of an ease-in, ease-out process so that instead of there being a sudden transition, as this amendment would create, there is a period of grace. Can she also confirm that where there is undue pressure, every effort is made neither to jeopardise the users and carers nor to allow the whole system to come crashing down because of the local authorities?

Lord Turnbull: My Lords, when I spoke on Second Reading I was critical of this Bill on grounds of both process and substance, and despite the assurances offered by the Minister nothing I have seen or heard subsequently causes me to revise that assessment.

On process, it exemplifies how not to go about developing a policy on a long-term issue. It introduces an option previously rejected in the Green Paper, even before the consultation period was finished, and, to judge by the outcry from local authorities and care professionals, insufficient work has been done to nail down the costs or establish clearly who should fund them.

On substance, the Bill remains flawed. Rather than progressively increasing the support elderly people are eligible for, as their needs rise over time, it introduces a discontinuity whereby people with moderately high needs in their own homes are helped much more generously than those with even greater needs who have to move into a residential home. This is an injustice and I do not think we should introduce that injustice without a plan being in place quickly to resolve it.

It is an acknowledged role of this House to seek greater time for reflection where flawed legislation or flawed implementation is put before us. In my view this is precisely such a case where we need more time to get the policy, its funding and implementation right. I therefore support this amendment.

Baroness Turner of Camden: I rise because I fully support the Bill and have done from the very beginning. I also have some information from the Government about the work that they have already been doing with councils to ensure that councils have as much information as possible about the policy, the support that will be provided and the amount of central funding that they will receive. Moreover, we are talking here about people with the highest needs. Most of them have been anticipating that they will have a service from 1 October 2010 and I do not really think that we should disappoint them when they have been expecting an improved service. In point of fact, of course, one of the most important groups is the people who actually care for them. I have been a carer myself and I know how one waits and hopes for some assistance and is very unhappy when one does not get any. I do not think that the amendment from the noble Lord, Lord Best, should be accepted. We should proceed as fast as we can to get this policy operating so that people who have high needs get some assistance as soon as possible.

Baroness Howarth of Breckland: I had not intended to speak but, listening to some of the debate, I want to add a very short comment.

I am certainly concerned for carers and users and the disappointment that they might face if this is not implemented as soon as possible. As someone who works in the sector all the time, I think that we have to face the reality of who will be disappointed and who will receive the service. What is absolutely clear is that, whatever happens, there will be rationing. We have heard the arguments—I shall not repeat them—from the noble Lord, Lord Sutherland, the noble Baroness, Lady Barker, and others, about the situation in local authorities. We all know that at the moment there are not enough domiciliary carers to meet the need. Those providers of domiciliary care services know that currently they are sending people in at six o'clock at night to put people to bed and at six o'clock in the morning to get them up, because that is the only time slot that remains. If we introduce the legislation immediately there will be a range of people who are currently receiving services but who are not at the heaviest end in the community, who will therefore lose those services because the services will be moved to people who can afford to pay for them but who will have a right to them. My worry is for those carers. I declare an interest as someone with responsibility for someone with serious Alzheimer's in the community in the north of England and who may well benefit from this change. I think that we have to think very carefully.

My other reason for speaking is that I do not wish the Bill to fail. I do not want to support what might be a wrecking amendment. We have long waited for social care to be on the agenda—for those who need that type of social care to have the same kind of benefit as they would if they went into hospital. Many of them are the same patients/clients; they are the same people who need that kind of service. I hope that we will not lose the side of the Bill that takes us into the Green Paper.

Local authorities need time. Practically, they will have to sort out who does and who does not receive a service. Although I find it hard to disagree with some of my colleagues who support carers and carers' associations, some of those people will lose out because there simply will not be enough money to go round.

Baroness Thornton: The amendment in the name of the noble Lord, Lord Best, refers to a commencement date of 1 April 2011. It is worth clarifying that this would prevent the making and laying of regulations before April 2011. The effect of the amendment would therefore be to delay implementation of the scheme until June 2011. That probably was not the noble Lord's intention; indeed, it was not the effect of the amendment that he tabled in Committee.

I am sure the House will be pleased to hear that I do not intend to repeat the remarks that I made at previous stages of the Bill but will instead address the issue of how the Government want to address the concerns expressed about councils' readiness to introduce these measures from October 2010.

I note briefly that we are supported in our ambition to take action by key charities, which recognise that the Bill provides a real opportunity to individuals and their families. I thank my noble friend Lady Pitkeathley for reminding the House that we are not starting down this path with a blank sheet of paper.

We do not think it right to delay support to individuals because of local implementation issues—we think it is right to tackle those issues. However, we have listened to the concerns expressed, both in this place and in our widespread consultation on the proposals. Taking those concerns on board, we have already confirmed in our response to the consultation that we will ensure that councils are able to phase in the implementation of free personal care between October 2010 and March 2011, to take account of both local issues and potential peaks in demand for assessment.

It is, however, our firm intention to introduce the scheme from October so that people can begin to benefit from this offer. In recognition of the large number of assessments that may need to be done initially, we propose to include in regulations a measure of backdating for individuals already assessed as needing personal care. Our intention is that, between October and April, councils will be able to delay the full assessment for free personal care of people who are already in the system and have been assessed as needing council care. These people will be able to have an assessment later and have any payments for free personal care backdated. Councils will be able to assess those people who are approaching social care for the first time—say, on discharge from hospital—in the normal fashion. Councils will, however, have to assess those people currently funding their own care and not currently known to the system when they make an approach from October.

In that way, we are offering councils which feel that they will not be fully ready by October the opportunity to have a staged approach to implementation. They

[Baroness Thornton]
will be able to focus on meeting the needs of people who have funded their own care, safe in the knowledge that those within the system will not be disadvantaged if they are not ready to fully assess them from the date of the introduction of the scheme. I will be circulating draft regulations before Third Reading that will give effect to these flexibilities for councils.

We are marrying two important objectives, recognising the practical difficulties that might be faced by some councils but ensuring that those with the highest care needs in our society receive the personal care that they need free of charge, as eloquently explained by my noble friend Lady Turner.

In addition to the specific new provision, offering flexibility while committing to provide for those in the highest need, we have published a clear implementation plan in our response to the consultation. We will be working closely with local government representatives to support councils in implementing the new arrangements, including a new commitment from the Department of Health to provide some centrally funded training for councils.

The government consultation response also sets out our proposal for the allocation formula to be used to distribute the specific extra grant of £210 million to cover the six-month period from October 2010, including an indicative allocation for each council. This gives local authorities greater clarity on the funding available, and a greater ability to plan for the implementation of this scheme.

Extensive discussion has taken place on the Bill, and we have announced flexibilities around implementation to ensure that councils provide free personal care from October. I ask the noble Lord to withdraw this amendment and engage with us in discussions to ensure that we have the best support possible to councils to help them through this implementation. If he does not wish to do so, I ask the House to reject his amendment.

Lord Warner: Before the Minister sits down, will she confirm for the record that the Government believe that they should ignore the advice of the professional body whose members will be responsible for implementing this—namely, ADASS?

Baroness Thornton: My Lords, we are not ignoring the advice of ADASS; we are in continuous discussion with it. We disagree with some of its members about how this can be implemented.

Lord Best: My Lords, I am grateful for support for this amendment from right round the House. The Minister's point that the excellent concession that would allow councils to phase in the assessment of eligibility over a period time and then later on pay the individual the sums back to the date when they applied does not unfortunately negate the need for councils to complete a vast range of other preparatory activity of the kind that I listed earlier. It would be wrong to assume any less pressure on councils to complete all these tasks by 1 October simply because they can backdate individuals' entitlements.

I can see local authorities incurring a good deal of opprobrium if the implementation date remains 1 October but nobody gets any cash for several months. The complaints that councils would receive would be very unfair when they are making it clear in advance that these deadlines are quite unrealistic. The noble Baroness, Lady Barker, explained the huge changes that are overloading those in local authorities. The noble Earl, Lord Howe, noted how the financial burden of this measure will force a number of councils to make horrible choices on what to cut elsewhere in their budget. The noble Baroness, Lady Howarth, expresses her anxieties that others in real need of care will suffer. The noble Lord, Lord Sutherland, adds that this amendment does no harm to the Bill's direction of travel.

If there are technical flaws in the wording, I apologise. No doubt, if passed by your Lordships, this can come back to us from the other place with a better turn of phrase. I detect widespread agreement that more time is needed before this Bill should be implemented. I would like to test the opinion of the House.

4.31 pm

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Amendment 2 agreed.

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4.46 pm

Amendment 3

Moved by ***Earl Howe***

3: Clause 1, page 2, line 12, at end insert—

"( ) For the purposes of this section, where a person has been assessed as deafblind, provision of personal care to a person living at home shall include the provision of communication and mobility support."

Earl Howe: My Lords, with this amendment I return us briefly to an issue I raised in Committee and one which the Minister has since been kind enough to talk

[Earl Howe]
to me about privately. I refer to the fact that this Bill and its implementing regulations look likely, if nothing is done, to sideline the needs of deafblind people.

Perhaps I may remind the House why this is such a concern. To be both deaf and blind is surely one of the cruellest of disabilities. It is impossible for any deafblind person to live a normal life without receiving some measure of care, and for the worst afflicted it would be difficult to describe their level of need as anything other than critical. Indeed, under the current FACS guidance, deafblind people are frequently assessed as having a critical need under the category which relates to involvement in family and wider community life. If the care needs of deafblind people are not addressed, they are at extreme risk of having to go into residential care.

The problem is that, deserving of help as these individuals may be, the people whom this Bill is designed to benefit are not the deafblind but rather the frail elderly or those younger people who are severely physically disabled. The kind of personal care which the frail elderly typically require—dressing, help with toileting and bathing, assistance with eating and so on—is often not relevant to a deafblind person whose needs centre above all on help with communication and the whole business of interacting with the outside world. The draft regulations published by the department effectively narrow the definition of personal care so as to exclude this kind of personal care.

In Committee, I pointed out what I felt was the unreasonableness of this narrow definition of personal care, bearing in mind the vulnerability and acuity of need of the deafblind. I invited the Minister to take time to think about this, which I know she has done, having been good enough to see me together with representatives of Sense a few days ago. I have therefore tabled this amendment as a means of asking her whether on reflection she believes that anything can be done to ensure that those deafblind people who have the most critical care needs and who are at greatest risk of requiring residential care if their needs are not met can, after all, qualify for free care and support. I beg to move.

Lord Low of Dalston: My Lords, I do not want to come between the House and hearing what the Minister has to say for any longer than necessary, but I wish to offer my support for the amendment moved in similar terms by the noble Earl, Lord Howe, in Committee. Unfortunately, I was not able to be here to do so, which is why I want to say a few words to indicate my warm support for the amendment before us today.

Deafblindness is a combination of disabilities both of hearing and sight. In this condition they are multiplicative and not just additive. Deafblindness is not just deafness plus blindness. The two disabilities compound one another in such a way as to give rise to a distinct disability which is different in kind, not just in degree, from the disability of either deafness or blindness.

Most of what we learn about the world comes through our eyes and ears, so deafblind people face major problems with communication, access to information and mobility. Without support, deafblind people are frequently unable to access basic information, maintain social contact, cook for themselves, go to work, exercise, engage in leisure activities, get out to the shops or the bank, visit the doctor, deal with post and bills, and even get around their own home in order to carry out household chores. Without communication and mobility support, many deafblind people do not feel safe going out of their house alone. They are, thus, effectively prisoners in their own home. Inside the house, they may be unable even to speak to anyone on the telephone, read, watch television, or listen to the radio. In this condition of extreme isolation, it is not surprising that they often develop higher rates of ill health with consequent cost to the National Health Service. They have a higher incidence of falls and a greater likelihood of developing conditions such as strokes, arthritis, heart disease, depression, and mental distress.

Those who suffer from deafblindness have a very serious level of disability. It is just about as serious as it is possible to conceive of. But, as the noble Earl explained, deafblind people are often able to perform the bare minimum of tasks of daily living, such as getting themselves up, washing, dressing, and maybe even feeding themselves by one means or another, even if they are unable to cook for themselves. This means that, according to the definition of personal care customarily employed, a deafblind person would not qualify for free personal care under the provisions of this Bill. The definition of personal care needs to broadened to include the mobility and communication support which deafblind people so desperately need. That is why I so strongly support this amendment.

Baroness Finlay of Llandaff: My Lords, I also strongly support this amendment. Like the noble Lord, Lord Low, I was unable to be here at the Committee stage because of other commitments. I just seek clarification from the Minister about reablement. The Bill says free provision is,

"conditional on the person undergoing a process designed to maximise the person's ability to live independently".

I hope the Government are going to concede something in this area. Many of these people will have already had maximum independent living support prior to this Bill. I am concerned about what happens if somebody has a condition which is so severe that it is envisaged that no improvement can be made towards their independent living, or if they have already undergone a process, as part of their care management, which takes them to the maximum level. I hope we do not end up with the tokenism of some kind of reablement package.

Lord Tunnicliffe: My Lords, I thank the noble Earl, Lord Howe, for raising this issue and the noble Lord, Lord Low, for the passion he expressed. I also thank the noble Earl for the time he has spent with my noble friend discussing this. As he knows, we will ask for the amendment to be withdrawn. However, we have discussed the assurances that I will give, and I will briefly go through them.

The Government are very sympathetic to the deafblind, who are a group with very specific needs. We will ensure that the guidance we produce makes clear that

where a person is unable to undertake activities of daily living because of deafblindness, this should be recognised; for example, where they are unable to feed themselves because they cannot identify food. While people who are deafblind have specific needs, the measures in the Bill are about providing free personal care to people with the highest needs. These measures are targeted and costed to include deafblind people within this group. The Bill is not intended to cover the entirety of a person's care needs; only their personal care needs. We have always said that this is a proportionate measure—a step on the way to longer-term reform of the social care system.

To extend the free personal care scheme to provide communication support to the deafblind would be significantly to widen the scope and the costs of our proposals. On Sense's own figures, given in evidence to the Health Select Committee, there are approximately 180,000 deafblind people who might seek to benefit, and Sense anticipates that this figure will rise to more than 300,000 by 2029. To include communication and mobility support would be moving beyond the scope of personal care into the wider domain of care and support. The forthcoming White Paper will set out our plans for wider future long-term reform of the social care system.

Noble Lords have expressed concern about whether the measures are affordable and could be implemented in time by local authorities. To accept the amendment would increase both the costs and complexity of the implementation of such measures. While we do not believe that the Bill is an appropriate place to insert specific provisions for specific conditions, we are sympathetic to the needs of the deafblind. For that reason, we reissued statutory guidance in June last year to all local authorities. We have also, in the revised eligibility framework published last month, reminded local authorities of their obligations to take proper account of sensory impairment in reaching decisions about eligibility for social care. When Ministers and officials met Sense, we agreed that we would ensure that the guidance published to support the implementation of free personal care will remind authorities of their obligations to take the needs of this group seriously and offer the support needed.

On the matter raised by the noble Baroness, Lady Finlay, I believe that the issue of reablement was covered by my noble friend in Committee. We expect local authorities to use reablement in a sensitive way, and not in the difficult areas to which she alluded. I hope that the assurances provided in Committee are sufficient. In the light of what I have said, I hope that the noble Earl will withdraw his amendment.

Earl Howe: My Lords, I thank all noble Lords who have spoken in the debate and in particular the Minister for his reply. I am a little disappointed. I had hoped that the deafblind community might be able to take from this debate a greater degree of hope and comfort. It is reassuring that the Government have re-emphasised in guidance the importance of recognising the gravity of this disability but it does not appear that there is much scope for making particular allowance for it in the scheme that we are debating. That is, to put it mildly, a pity. However, I do not propose to pursue the matter. I hope that the Government will give it some additional consideration as their plans materialise. I beg leave to withdraw the amendment.

Amendment 3 withdrawn.

5 pm

Amendment 4

Moved by ***Baroness Masham of Ilton***

4: Clause 1, page 2, line 12, at end insert—

"( ) After section 16 of the Community Care (Delayed Discharges etc.) Act 2003 insert—

"16A Right of appeal

(1) The Secretary of State shall by regulations establish an appeal mechanism for persons who believe that they are entitled, under section 15, to a qualifying service free of charge for a period of longer than six weeks, but who have been refused such a service by their local authority.

(2) Regulations made under subsection (1) shall be made by statutory instrument and any such instrument may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.""

Baroness Masham of Ilton: My Lords, I have retabled this amendment on the right of appeal, as it is important to make it clear that there is a straightforward and fast-track mechanism. No doubt, in the critical band of people who need help, there will be complex problems. One must not forget that such people are very vulnerable and that their carers, if they have them, may be at their wits' end. There are still unanswered questions: what will be the cut-off point and who will do the assessments? It is well known that many local authorities have differing criteria, so there is sure to be a postcode lottery. When I read the list of activities of daily living, I see that many deal with nursing duties covering such things as eating and drinking when there is difficulty swallowing, managing urinary and bowel functions, management of treatment that consists of a prescription-only medicine and dealing with equipment such as pressure-relieving mattresses. Those activities all need trained people who know what they are doing.

I thank the noble Baroness, Lady Thornton, for making herself and members of the Bill team available to Members of your Lordships' House. I agree with the Minister that we do not wish to add any unnecessary layers to the process. However, I see too many bureaucratic layers in the existing social service appeals procedure. In Committee, the noble Baroness, Lady Barker, explained the cumbersome process. She said:

"One is an appeal against an assessment of needs, the second may be an appeal against the basis on which that assessment was made—that is, the criteria—and the third is an appeal against the decision about what funds or, indeed, services to allocate to somebody".—[*Official Report*, 22/2/10; col. 825.]

Could the system not be streamlined and made simpler and fast-tracked?

After Committee stage, I received a telephone call from a lady with severe arthritis. She had a problem getting out of her bath and so needed to have a shower installed. When she was assessed, it had been agreed that she needed a shower, but she was told that she would have to wait three years. Are people really being put first or are those just meaningless words?

[Baroness Masham of Ilton]

In the paper on personal care, it is proposed that to be eligible for free personal care someone must satisfy two key criteria: first, they must be identified by their local authority as falling within the fair access to care services critical band; and, secondly, they must require significant help or significant prompting in order to carry out four or more activities of daily living. What happens to all the other people who need a little help to enable them to stay independent and to live in their own homes? Will the local authorities say, "Sorry, we have no more money"?

After appeals, 50 per cent of assessments have been found to be wrong. The Minister sent a paper about complaints from North Yorkshire. One of the questions was:

"How long will it take the Ombudsman to investigate the complaint once the council has responded to it?".

The answer was:

"Our target is to complete the investigation of half of the complaints made to us within 13 weeks. Eighty per cent of complaints are fully investigated within 26 weeks".

Complex social care complaints tend to be among those that take longer to investigate. How long is longer? The people within the critical band have complex conditions; they cannot wait. They need help when they need it. Would it not be possible to build on the ombudsman's service and have local ombudsmen to set up a fast-track appeals process for those at-risk people? I beg to move.

Baroness O'Loan: I support the amendment tabled by the noble Baroness, Lady Masham. This Bill clearly seeks to achieve a laudable and desirable end and we have heard articulated a small number of the very serious issues that have arisen in our contemplation of it. Those affected by the legislation will by definition include those most seriously ill and disabled in our society, each of whom may present with a wide range of issues requiring an equally wide range of responses. They will inevitably include those with the most serious communication and access difficulties, as referred to by the noble Lord, Lord Low, in the context of those who are both deaf and blind. The critical nature of those conditions will necessitate a speedy response to an application and to any appeal.

Pending the resolution of a dispute—there will inevitably be disputes, as we have seen in the other sectors, on the objectivity and fairness of what has been decided—the people will have to cope without help. We have heard this afternoon that those who are subsequently accepted for free personal care at home will have the money backdated, but that comes too late for those who have no money. The result of not having a speedy and effective disputes resolution mechanism may drive them into residential care.

I suggest that any dispute resolution must be accessible, open and easily understood by those who seek to use it. People must be able to find out what it is and they must be able to take part in the process. The system must be timely and effective and it must be operated by those with sufficient training in the matters related to the dispute. The noble Baroness, Lady Masham, referred to those matters of training and specific issues that will be raised by applicants in this situation. For those reasons, we must contemplate the possibility that a new disputes resolution is necessary.

Lord Tunnicliffe: My Lords, I thank the noble Baroness, Lady Masham, for bringing up this issue. Some general comments have been made about the proposed scheme, but I shall refer to only one of them, which is the suggestion that there will be a postcode lottery for the scheme. That is not true; it will be a national scheme to national standards and we will be taking a series of measures to ensure that uniform standards apply throughout the country.

The real question brought up by the amendment is whether there should be a separate appeals mechanism. The Government believe that there should not be and that the present local government appeals mechanism, together with the ombudsman, does a good job and meets the objectives of a speedy, effective and well informed assessment.

The amendment would require the Secretary of State to make regulations that establish a specific appeals mechanism for those who believe that they are entitled to indefinite provision of a free qualifying service but have been denied it by their local authority. That would include a denial by the local authority to provide free personal care.

There is already a system for complaints under the existing procedure, providing the possibility of local resolution, supplemented by the possibility of independent investigation. We intend that that system will cover any complaints about eligibility for free personal care. If the person is not satisfied with how their complaint is dealt with under existing local authority complaints procedures, they can take the matter up with the Local Government Ombudsman or with the courts by means of judicial review.

I agree with the noble Baroness that it is important that decisions on free personal care at home are as fair and transparent as possible, including the right to challenge local authority decisions by people who have reason to believe that they should be eligible for such care, based on the criteria set out in regulations. That should be followed by the possibility of complaint to an independent body, should that be necessary.

The Local Government Ombudsman states in its fact sheet on adult social care:

"Experience suggests that many councils are quite successful at resolving complaints through their own complaints procedures".

That is reiterated by North Yorkshire County Council, which says in its guide to its local complaints procedure that more than 95 per cent of the complaints that it receives are resolved informally at the first stage of the complaints process.

We are aiming to develop a simple, national decision tool to support decisions about eligibility for free personal care. The tool will be widely available to people who think that they may qualify, so that they can decide whether it would be worth while making an approach to the council in the first place. In that way, we hope that the number of speculative approaches that councils receive will be reduced. Similarly, the Social Care Institute for Excellence has been commissioned to produce training material for front-line staff in councils. A simple guide for the public is also being produced as part of that work. We believe that that will help to ensure that people both are better informed about the process and better understand the reasons why decisions have been taken.

We anticipate, therefore, that this much more transparent process, which involves individuals, should ensure that people have less need to resort to disputing the outcome of assessments. We have shared materials from local councils and the Local Government Ombudsman, which explain the current procedure, with the noble Baroness in a meeting with her, and last week sent an explanatory letter to her and other Peers. We hope that those steps have been helpful in providing some clarity and reassurance regarding the existing system.

The noble Baroness suggested in Committee that the Care Standards Tribunal could be expanded to include appeals about eligibility for free personal care. I thank her for that suggestion, but we do not think that it would be suitable. The existing complaints procedure for social care is fit for purpose in handling disputes relating to personal care at home. In any event, the jurisdiction of the tribunal has now been absorbed by the Health, Education and Social Care Chamber of the First-tier Tribunal.

We would not want further to confuse either the complainant or the council handling the complaint by introducing yet another mechanism. Multiple approaches can be the recipe for delay and further confusion and it would be unclear which process would take precedence. We will look to review the situation as part of our overall review of the policy's costs and implementation within 12 to 18 months of its introduction, but at present we do not think that there are grounds for introducing a new appeals mechanism.

I thank the noble Baroness, Lady Masham, for meeting us to discuss her concerns and I hope that the letter that was circulated last week, along with examples about use of existing complaints procedures, provided reassurance that there is already adequate provision in this area. Accordingly, I invite her to withdraw her amendment.

5.15 pm

Baroness Masham of Ilton: My Lords, I thank the Minister for his reply. North Yorkshire and other local authorities have their appeal systems, but they are far too slow. When you are dealing with critical care, you need fast-track solutions. What worries me is that the professional bodies have their own support but service users often have to struggle for everything. Many years ago, when I was on a community health council, I found that it was the council members who did not turn up for meetings. I just hope that they will change their tune now that they are going to deal with seriously ill people.

I saw a glimmer of hope when the Minister said that, in 12 to 18 months, the situation would be reviewed. I think that I will be saying, "I told you so". I hope that the system will work, but now that there will be a delay on the Bill perhaps councils will have time to get organised. I thank the Minister again and I thank my noble friend for her support—she knows about ombudsmen far better than anyone else does. I beg leave to withdraw the amendment.

Amendment 4 withdrawn.

Clause 2 : Extent and short title

Amendment 5

Moved by ***Lord Lipsey***

5: Clause 2, page 2, line 31, at end insert—

"(3) This Act shall come into force on such day as the Secretary of State may, by order made by statutory instrument, appoint.

(4) A statutory instrument containing an order made under subsection (3) may not be made unless a draft of the instrument has been laid before, and approved by, a resolution of each House of Parliament."

Lord Lipsey: My Lords, I shall speak to the amendment in my name and those of the noble Earl, Lord Howe, and the noble Baronesses, Lady Barker and Lady Murphy. In doing so, I remind the House that I am the honorary president of SOLLA, the Society of Later Life Advisers.

The amendment would insert into the Bill a commencement date and make sure that that date is carried first by an affirmative resolution of both Houses of Parliament. It mirrors an amendment moved in another place with the support of both the Conservative Party and the Liberal Democrats. Also, if I may put it this way, it represents a belt to go with the braces of the noble Lord, Lord Best, in ensuring that before the Bill is put into effect we have bottomed out the many open issues we are left with after all the hours this House has spent debating it. As was pointed out in another place, there is nothing to stop the Government introducing that commencement order tomorrow if they so wish. However, I accept that in practice there will not be a commencement order until after a general election—indeed, that is part of its purpose. This means a short delay, no more and no less.

I want to emphasise one point. There has been a suggestion that the amendments tabled by some of us are designed to wreck the Bill. This is a terrible calumny. Delaying is not stopping. I am not a supporter of the Bill and the policy behind it, but if I were I would want delay too: I would want my Bill put in the best possible order before I shoved it into effect. Nothing will be served for the Government if this results in administrative chaos or such a burden to finances that it has to be withdrawn again. These amendments are not unhelpful to the Government, even though that is not necessarily the only reason we move them. They are not wrecking amendments. The only thing they wreck is the attempt to force the Bill through as if it were an emergency measure, short-cutting parliamentary procedures, ignoring the criticism of its provisions which has dominated public discussion and without thinking through the fine detail as it needs to be thought through.

If ever proof of what I am saying were needed, it came in the report from the Commons Health Select Committee, published last Friday. Not all of your Lordships will have had the opportunity to study that report, but I hope you can take it from me and others who have that it is an Exocet into the heart of this policy. Its conclusions refer to, "policy-making on the hoof", "piecemeal reform", "perverse incentives", "unintended consequences" and underfunding which, "could be detrimental to the long-term interests of NHS patients".

[LORD LIPSEY]

That is not a contribution to the Conservatives' election manifesto; it is based on evidence from a committee of the House of Commons, with a majority of Labour members, on the eve of a general election. This is the verdict of the Government's loyal supporters—Labour, as I am, to the roots—so let us not think that this is some ideological cross-party issue; it is what the Select Committee said. Your Lordships have a duty to ensure that the Government properly consider and respond to that report and its criticisms before the Bill is rushed into law.

The second thing to be resolved is the administrative difficulties. I will not repeat all that the noble Lord, Lord Best, said.

Thirdly, there is the controversy over costs, although I will not go into the detail of this either, as the noble Lord, Lord Warner, will do so when he moves his amendment. I will, however, quote SOLLA, which I mentioned earlier, because I do not think that a single outside authority or anyone else, other than the Government, believes that these assessments of costs are realistic. They were shoved out in a few hours after the Prime Minister's speech, and they have been defended as though they were genuine and serious assessments of costs. SOLLA said that the costing is "at best only approximate", and it cites the view of most experts—and SOLLA's members are experts—that they are severely underestimated. We cannot let this Bill go through when we do not have the faintest clue how the expenditure that it mandates will be funded.

I have great sympathy for the Minister. She is a gallant and much loved Minister in this House, and she is working with hopelessly overburdened officials to an impossible timetable that has been dictated to them by No. 10. No. 10 can dictate to Ministers and to their officials, but it cannot dictate to this House, and it is our duty to make and accept the case for a steadier timetable. My argument for a steadier timetable would apply even if there was no election and even if it was true—and it is far from true—that the Government's policy attracted the support of all the parties in this Parliament in a spirit of consensus. Of course, an election is imminent and the Conservatives and the Lib Dems have set out quite different approaches to this problem from the Government's approach. I am not going to adjudicate between them, save only to say that there has been some very unfortunate political toing and froing on this. I look forward, after the election, to returning to the spirit of consensus that should inform our debates on these issues and to getting a consensus solution that will last not for the month to the general election, or for the year that follows it, but for years and decades to come to give our older people the certainty that they require.

The Government have proceeded throughout as though this was emergency legislation. The policy itself was announced in the Prime Minister's conference speech in the midst of a government consultation that had explicitly ruled out the policy that it encapsulates. It was examined in detail in the Commons in a single day, and had its Committee stage in your Lordships' House before the Government had completed their consultation on the regulations. The Government have not yet produced their White Paper—this is the most serious lacuna of all—setting out their policy for a comprehensive reform of long-term care, towards which they repeatedly claim the Bill is an interim step. It would be a grave mistake to pass this legislation without seeing the full plan for the architecture.

I accept that I have a certain strength of feeling about this, but this is not just my view; those two calm heads and former Cabinet Secretaries, the noble Lords, Lord Turnbull and Lord Butler, have used quite exceptionally severe words when speaking about it. The noble Lord, Lord Butler, told the Committee of this House that this Bill, which commits a future Government to huge expenditure, was,

"an act of national sabotage".—[*Official Report*, 22/2/10; col. 893.]

I wonder whether he ever put that into Cabinet minutes. These are strong words. The noble Lord, Lord Turnbull, said that the Bill was,

"so badly constructed, so poorly costed and so weakly scrutinised that",—[*Official Report*, 1/2/10; col. 68.]

we should not let it through. Cabinet Secretaries do not use their words lightly, and those are words that the whole House should weigh in its consideration this afternoon.

It is now 38 long years since I first started work in and around Westminster, and in that time Governments have done some pretty disgraceful things and Parliament has passed some pretty bad Bills. But, rack my memory as I will, I cannot recall in my lifetime an example of a piece of legislation which has so completely caused a British Government to ignore the precepts of good governance. Never mind the policy: look at the way it has been done and let your Lordships put that right. Fortunately, we exist in our constitution for one very specific purpose: as a backstop against constitutional abuse. Today, I hope we will carry this amendment, as we carried the amendment of the noble Lord, Lord Best, and as I trust we will carry others. That will at least gives pause to this headlong rush into half-baked legislation. Resolving the problem will be a matter for incoming Ministers with an up-to-date mandate from those who should ultimately decide these things—the people of this country.

Earl Howe: My Lords, in supporting everything that the noble Lord, Lord Lipsey, has said, I would like to add my own very brief perspective on this amendment, lest the attitude of my party is in any way unclear. This amendment would in no way frustrate the Government's ability to deliver on schedule their policy of free personal care at home to those in the most severe need; it does not tie the Government's hands except in the loosest sense. Should the current Government be re-elected at the general election in a few weeks' time, all they would need to do is lay the appropriate regulations immediately.

If, on the other hand, a Conservative Government were elected, Ministers would be able to take what we believe is the responsible course, which is to cost this policy properly, make sure that it is affordable in the context of the overall public finances and that it is deliverable in terms of the human resources that will be needed. None of these things is clear yet. The Government have brought this policy in, as the noble Lord, Lord Lipsey, has said, on the hoof, and they are blatantly playing to the gallery in so doing. I do not

think that that is a responsible approach for any Government to take, particularly at a time of economic stringency. Our wish, if we are elected, is to achieve a political consensus on the long-term reform of social care policy, which would include a fair and coherent framework of social care funding to apply across the spectrum. In doing that, we would want to pick up the pointers and challenges laid down in the Government's well argued Green Paper of last summer.

As I said in Committee, I would have liked to see this Bill act as the enabling legislative vehicle for at least part of that comprehensive reform package. The undesirable and unintended consequences which I believe will ensue from this scheme if it is launched on its own could have been mitigated very substantially by a graduated scale of entitlements which avoided the cliff edge that this scheme will create and by creating appropriate counterbalances to the perverse incentives inherent in the Government's policy. That is clearly not to be, but given that Ministers are not interested in that broader idea, I do not think it is in any way wrong for an incoming Conservative Government, if they arrive, to make the introduction of this policy dependent on a much more thorough analysis of the risks that it carries and the financial burdens that it will impose on local government—for we really cannot say, as of today, that we have certainty on either of those things.

Baroness Thornton: My Lords, this amendment in the names of my noble friend Lord Lipsey, the noble Earl, Lord Howe, and the noble Baronesses, Lady Barker and Lady Murphy, would require that a commencement order would need to be made before the proposals in the Bill could come into force. Additionally, such an order would need to be approved by the affirmative procedure, with consideration in this House and the other place.

Not only has this one-clause Bill had considerable scrutiny in this House and the other place, it has been openly and transparently discussed with many stakeholders over recent months. I covered this issue at length at Second Reading and in Committee, and the Government published their response to the consultation on regulations and guidance on 12 March 2010. Therefore, given the extensive scrutiny that this Bill has had here and in the other place, and more widely with stakeholders in the sector, we consider this amendment unnecessary.

In addition, the Delegated Powers Committee reported on the powers in the Bill on 22 January 2010. It said:

"There is nothing in the Bill to which we wish to draw the attention of the House".

In other words, the negative procedure is appropriate.

5.30 pm

My noble friend Lord Lipsey has tabled the amendment in the knowledge that the statutory provisions he is proposing would mean that the timetable for delivering free personal care from October would be placed in jeopardy. Please note that I have not used the word "wrecking" at any point during these debates, nor do I intend to do so. This is the Government's priority and I can assure my noble friend that we will do whatever is necessary to deliver to that deadline for those people who need to benefit from this Bill. I would say to the noble Earl that if his party was so concerned to move forward to tackle the broader issues of social policy, it is a shame it pulled out a few months ago.

I remind the House that the Bill had an unopposed passage in another place and that there were extensive discussions with stakeholders, voluntary organisations and charities throughout. Today, I received a copy of a letter from Carers UK urging the Government not to delay. Given previous discussions, the amendment would not serve the best interests of councils, as it would introduce yet further uncertainty into their plans for implementation were this to be agreed.

Therefore, I urge all noble Lords to ensure that the Bill is not put at risk of delay and that they do not seek to jeopardise the delivery of this policy in October. I would ask that the amendment is withdrawn or, failing that, that it is opposed.

Lord Lipsey: My Lords, I think that the Minister is beginning to tire of her task, given the perfunctory nature of those remarks. Within them, I think that she inadvertently misled the House as to the findings of the Delegated Powers Committee. It did not question the use of negative resolution procedures for regulations under the Bill as it then stood. Whether that was an inadvertency on its part or an oversight, or whether it should have done, does not matter because the House is not bound by it anyway.

The Delegated Powers Committee could not have considered whether this power—that is, the power to bring the Bill into force—should be by affirmative or negative resolution because it is only now before the House. It seems to me to be clearly appropriate that a decision of this magnitude, which was really a decision around which so many of our debates have evolved, must be taken by affirmative resolution in both Houses, as this amendment proposes.

The breath is somewhat taken away when I hear that the Bill had extensive scrutiny in another place or that it was not opposed. As I have pointed out to the House, this amendment was moved in another place by the two Opposition parties—unfortunately, it was defeated by the Government majority—in one day of frenetic proceedings when the whole Bill was shoved through. I think that your Lordships will recognise that if ever there was a Bill that required detailed scrutiny, it is the Bill before us today. This is not frivolous legislation. It has widespread administrative, financial and, most important, personal and social implications.

For the Minister to claim that a single day's consideration in the Commons represents proper consideration of this Bill is not a proposition with which I could assent. I trust that the House will refuse to assent, as I test the opinion of the House in the Lobbies.

5.33 pm

Division on Amendment 5

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Amendment 5 agreed.

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5.45 pm

Amendment 6

Moved by ***Lord Warner***

6: Clause 2, page 2, line 31, at end insert—

"( ) This Act shall not come into force until the Secretary of State has commissioned an independent review of the affordability of the provisions contained within this Act and has laid the report of that review before both Houses of Parliament."

Lord Warner: My Lords, this amendment is in my name and those of the noble Baronesses, Lady Barker and Lady Murphy, and the noble Earl, Lord Howe. The amendment arises solely from the Government's failure to convince people in this House and outside that the Bill is soundly costed and affordable. To get in first, let me say that this is a good governance amendment, not a wrecking amendment.

The concerns over affordability have been made worse by the fact that we do not know how the Bill would fit into any longer-term solution and what the cost of that solution would be. We know, however, that the Government have failed to convince the Health Select Committee, the LGA, the Association of Directors of Adult Social Services and the King's Fund with their numbers, so I feel in quite good company.

I shall anticipate the Minister's response that the Government's estimates are based on independent analysis by the PSSRU at the London School of Economics. The trouble is that the Secretary of State would not let the Health Select Committee see the detailed workings, despite two written requests, and the assumptions behind some of the computations look decidedly shaky. If the number of weekly care hours assumed for people with critical needs, demand assumptions and price increases used all look unrealistic, as I think they do, the Government's figures are going to be unconvincing—and that is what they are.

I start with the ADASS cost figures. I will not repeat my Second Reading speech, other than to remind the House that ADASS said that the Bill would cost at least £1 billion a year to implement, compared to the Government's figure of £670 million. The Government have consistently tried to rubbish the higher figure by saying that ADASS admitted overestimating some of its costs. However, the association said to me, in a letter dated 15 March:

"At no time have we admitted that the results from our survey were an overestimate of the true state of affairs that would occur if the Bill were to be implemented. If anything, we deliberately decided to underestimate as far as we possibly could, wherever we could, so as to avoid appearing to exaggerate or talk up our figures".

The association has not "sexed up" its figures. It sticks firmly to its estimate of at least £1 billion a year, which is based on real-world calculations from its members. I confirmed this again with the association yesterday by e-mail.

ADASS is supported in its view by the LGA. The noble Lord, Lord Best, has already indicated some of the arguments on that, so I will not repeat them. Moreover, the Health Select Committee sided with ADASS's position more than it did with the Government's. In paragraph 296 of its report of last Friday, the committee said:

"Furthermore, estimates of the likely levels of demand and cost appear low, and there is a risk that the reform could be substantially underfunded".

The committee was not helped in its deliberations by the Secretary of State's reluctance to provide his workings, as it made clear in paragraph 280.

I have rather more confidence in the ADASS figures than I do in the Government's, but that £1 billion figure is itself likely to rise faster than the Government estimate and this at a time when the public finances will be deteriorating, whoever is in government. That is because the Government's assumptions on demand and cost inflation are optimistically low. Their impact assessment states that there will be a 1.5 per cent annual increase in service volume due to demography and a 2 per cent annual increase in price for pay increases.

The Government deny that there is any valid comparison between their scheme and what has happened in Scotland since home care was made free. I accept that there is not a direct comparison between this scheme and the Scottish one, but that is not the same as saying that there will be no similarities in human behaviour when you make this care free for some people. In Scotland, the number of people claiming went up by 36 per cent in four years when care was made free. In the last of those years, cost increases by care providers went up by 15 per cent—that was in a single year. There has to be a wide variation between what has happened in Scotland and what will happen in England, but I simply do not believe that the human beings either side of Hadrian's Wall are that different in their likely behaviour when something is made free. Totally ignoring the Scottish experience as the Government are doing seems to me contrived. The Health Select Committee clearly did not believe the Government's estimates on future cost increases for this Bill and neither do I.

Lastly, there is the issue of whether local government is being treated fairly over funding this legislation. The noble Lord, Lord Best, has described well its grievances, so I will not repeat them. However, if ADASS and the LGA turn out to be right about the costings—as I

[Lord Warner]
believe they will—it will be a pyrrhic victory, because they will have to pick up the extra tab, which could well be over £300 million in the 2011-12 financial year alone. There is also something of a conjuring trick about how local government is supposed to meet its £250 million share of the claimed £670 million annual cost. The Government have said that local government is expected to find its share from the 4 per cent efficiency savings that it is to deliver in 2010-11 so that there are no extra burdens. In its letter of 15 March, ADASS said to me:

"We believe this is very poor reasoning. We are already delivering 4% savings to fund demographic changes and to keep council tax increases down. As a result of the PCaH there will have to be additional savings or increases in council tax".

Since it is difficult to increase council tax so close to the new year, this looks like cuts in services and possibly cuts to other elderly and vulnerable people, as others indicated earlier in the debate. The Government should accept the reasonable local government argument that this is a new burden that should be properly funded by central government.

We are at the beginning of a long, difficult and expensive road to comprehensive and durable reform of adult social care. This is probably the biggest social policy issue facing us in the next few years. A recent report by the London School of Economics suggests that the cost of free personal care for the elderly could have a price tag of an extra £20 billion a year building up over the next couple of decades. Getting the sums right and apportioning the cost fairly will be an important part of the journey that will have to be undertaken on, I hope, a cross-party basis.

With this first faltering step on this journey, the Government have not covered themselves with glory in their costings. They need to accept some help with the numbers from an independent source—I would suggest an organisation such as the Audit Commission or the King's Fund. This amendment will help them to get back on track without delaying the implementation of the Bill beyond next spring as the House voted for earlier this afternoon. I beg to move.

Earl Howe: My Lords, I strongly support this amendment. The Government's assurances that the Bill is affordable and that their costings are robust are belied by their own statements, never mind anything being said by local government or ADASS. It is worth reminding ourselves of some of the relevant parts of the impact assessment. First, there is the basic question of how many people stand to benefit from this policy. We do not know the answer to that question. Paragraphusb 5.5 of the impact assessment states:

"Data relating to the number of people who are defined as FACS Critical at any point in time and the relative distribution of their needs/disability is not something that is routinely collected at the centre".

Paragraph 8.8 states:

"We know very little about the disability of those younger adults who do not already receive free personal care, so all of the estimated costs … are themselves uncertain".

Paragraph 5.10 talks about,

"the inherent uncertainty in estimating the costs of offering free personal care in their homes to those with 4 or more ADLs"—

and so it goes on. Paragraph 5.11 states:

"Estimating the costs of re-ablement is difficult. We do not know for certain how many people are already receiving re-ablement services. In addition, we do not know exactly what proportion of individuals require no further care following re-ablement or for how long they derive such a benefit".

Paragraph 5.18 states that,

"there is a section of the population who will receive personal care who previously did not … A value on this benefit has not … been calculated".

The impact assessment says in terms that the costs of this scheme are based on estimates. One or two estimates at the margin might be all right, but basing just about every costing assumption on an estimate where there are no underlying data at all makes this exercise unacceptably risky. We know that financial modelling is still going on. Consultations with stakeholders about the costs are still going on. In the absence of much clearer information, it is impossible as of today to say that the Government's policy is affordable, which is why this amendment is absolutely right and appropriate.

Baroness Thornton: My Lords, this amendment in the name of the noble Lord, Lord Warner, supported by the noble Baronesses, Lady Barker and Lady Murphy, and the noble Earl, Lord Howe, would require an independent review of the affordability of the provisions contained in the Bill to be carried out and a report laid before Parliament before the Bill could come into force.

I fear that my remarks will be tedious, as I am about to say pretty much what I have said on the two previous occasions when we discussed such an amendment. Given the considerable scrutiny that this Bill and the costs of measures enabled by it have had in the other place and more widely, we feel that this amendment is not necessary. I do not intend to burden the House by repeating for the third time the discussions that we had on Second Reading and in Committee.

We have looked in detail at the concerns raised by the Association of Directors of Adult Social Services. We remain confident that our estimates, of £670 million, are robust, based on the independent analysis by the London School of Economics. Clearly, we disagree with ADASS and its interpretation of the discussions. I can only repeat what we believe to be the case. The ADASS survey, by the association's own admission, overestimated some aspects of the costs through a misunderstanding of the Government's figures. I would like to clarify that it is correct that ADASS has not admitted to this position publicly. This was a position that it took in informal discussions with officials and the ADASS resources committee. While there is no official record of these conversations, we think that it is disappointing that the association is now distancing itself from what we believe was a previously agreed position.

However, we have listened to the concerns expressed. In the government response to the consultation, we have provided additional clarity about the £210 million of additional funding that will be allocated for the coming year, covering the six months from October 2010 to March 2011. We have circulated a letter to all councils about this so that they are now clear about exactly

how much money they can expect. They can now make plans using these indicative allocation figures, which will be subject to final confirmation in June.

We are confident in our costings and have been open and transparent about the funding available with our stakeholders. In addition, we are fully committed to reviewing the costs of this scheme within 12 to 18 months of implementation and we will be working closely with local government representatives to ensure successful implementation. We are committed to collecting data from October and we will work with the councils to ensure that they have the necessary information.

Given that, we cannot see how an independent review prior to implementation would achieve anything. Where there is uncertainty—and we have been open and transparent about the uncertainties that exist—it is because the evidence is not there yet. Much of this involves assumptions about how people will behave and we cannot know whether they are right until the scheme is in place. We will need to work with councils to collect that information from the start, once the scheme is in place, and respond accordingly. That is the commitment that we have made. The net effect of this amendment would be to delay or jeopardise the implementation of this policy in October and the assistance that it would afford to the most vulnerable who need it. I therefore ask that the amendment be withdrawn or, failing that, be opposed.

6 pm

Lord Lipsey: Before the noble Baroness sits down, may I ask her a question? She says that the Government are confident in their costings. Will she therefore explain to the House why they twice denied the Health Committee of the House of Commons sight of those costings and why she told me in Committee that she would provide me with the costings but in fact provided me with a manual to the London School of Economics model, which predated the Prime Minister's announcement by several months?

Baroness Thornton: I do not have anything to add to the remarks that I have already made that explain our position on the costings.

Lord Warner: I am going to be equally tedious, but, before that, let me say one thing to my noble friend. Where there is this level of uncertainty about something, those of us who have been around in the public service for a long time usually try a pilot scheme in order to work things out and get more reliable data. We do not whack a Bill through both Houses of Parliament as emergency legislation. She might like to digest and brood on that issue with some of her colleagues. However, having listened to her, I remain totally unconvinced and I wish to test the opinion of the House.

6.02 pm

Division on Amendment 6

Contents 171; Not-Contents 120.

Amendment 6 agreed.

Division No. 3

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6.12 pm

Amendment 7

Moved by ***Baroness Barker***

7: After Clause 2, insert the following new Clause—

"Expiry

(1) This Act shall cease to have effect at the end of the period of two years beginning with the day on which it is passed unless the condition in subsection (2) is satisfied.

(2) The condition is that regulations made under section 15 of the Community Care (Delayed Discharges etc.) Act 2003, having the effect of requiring the provision of personal care at home free of charge for periods of more than six weeks, are in force."

Baroness Barker: My Lords, Amendment 7, tabled in my name and those of the noble Lords, Lord Lipsey and Lord Warner, and the noble Baroness, Lady Murphy, concerns what is commonly known as a sunset clause. It would impose a time limit on the effects of the Bill which is specified at two years. Why do we seek such a measure? Having listened with great interest not only to the discussions in your Lordships' House but also to a variety of briefings from the Association of Directors of Social Services and the charities, as well as from the Government, I still think there is too much about the Bill which is unknown. What it should be is a pilot measure, and I will come on to explain why I believe that this amendment is the most effective way to turn it into a pilot.

As the noble Lord, Lord Lipsey, said, the Health Select Committee report of another place is a pretty devastating critique of the Bill. I commend noble Lords to read it all, but would direct them in particular to the section that talks about unmet need. I refer to the paragraphs in which the Secretary of State and officials set out in various ways the extent to which they cannot be sure how many people there are at the moment who might be eligible for care but who pay for themselves, and the number who might be eligible with or without assistance from a carer. I have to say that of our debates in Committee, the ones I thought were the least satisfactory were those in which we discussed the process of assessment and the involvement of carers.

During the passage of the Bill, I have become used to the term "carer blind assessment", but when I read the Select Committee report, I came across a term that was new even to me, and I know a lot of jargon in this field; and that is "carer centred". It is where carers are not involved in the assessment of someone's abilities but, I believe, that carers themselves are taken into account in terms of assessing the services that will be provided. I may be wrong, but that is what I understand.

Throughout our discussions I have said that I have a fear that is different from that expressed by many noble Lords. They are concerned that the Bill will lead to an opening of the floodgates and that large numbers of people who are currently paying for their own needs will now believe themselves eligible for personal care. I have said consistently that I think that there is a completely different danger to consider. The number of people who will be assessed as being FACS-critical and in need of substantial assistance with four activities

of daily living may be very small. I shall quote a statement made by Mr Andrew Harrop of Age UK to the Select Committee. I should say that the same thoughts were passed on to me by Pauline Thompson, the longstanding policy officer of Age UK who is to retire tomorrow. Many noble Lords will know her and will have appreciated her work. Mr Harrop said that he found some of the policy a narrow but "welcome move forward", but went on to say about the proposed eligibility threshold that,

"you will need to be very, very disabled in order to get this free offer … the people who are going to be supported by this could be relatively few in number. There is a particular concern that people with fluctuating needs could be disadvantaged by the tightness of the eligibility criteria".

Officials in front of the Select Committee admitted that councils do not regularly hold data on unmet need, and indeed there is a school of thought, backed by In Control, which says that assessment of need by councils is unnecessary because people themselves are best equipped to know their own needs. Therefore, unmet need simply is not recorded.

In her response, the noble Baroness will say, as I would if I were she, that this Bill has the support of a number of different charities. Not surprisingly, those charities are doing their job, which is exactly the job I would do if I were in their place. They are attempting to secure some help for some of the people with whom they work. But all of those charities have noted that the legislation is deeply flawed at various different points.

We should go for a sunset clause for the following reason. The noble Lord, Lord Lipsey, is right to say that an incoming Government—I would include an incoming Liberal Democrat Government in this—will be faced with one of the most difficult political decisions to be made in a long time. It is so difficult that this Government ducked it 10 years ago. It will be extremely difficult to convince people not only that there must be restraint in public expenditure, but also to agree the priorities for the resources that are available. Governments of any hue find it intensely difficult to take away an entitlement that so far has been given for free. That is why, at this stage, we should add this clause to the Bill so that two years after the enactment of the legislation, whoever is right—whether it leads to an unmanageable level of demand for free personal care or whether I am right and the eligibility criteria have been drawn up in such a way that the Bill does not fulfil its intended purpose—a Government of any hue will be free to look again at the overall context of personal social care.

My colleague, Norman Lamb, has done a sterling job over the past few weeks in making the point that there has to be reform of social care and that, whatever the detail of that reform, it has to reflect a universal basic entitlement to care, a partnership model between the state and individuals, and some role for private insurers, all based on common criteria. I think that any incoming Government will work towards that. Perhaps the Minister will be able to tell us, when the White Paper is published, that her Government are moving in that direction. So far all that she has been able to do is assert that this is a step towards that kind of process, but she has given us no evidence. In the absence of that, and with so many unknowns of such magnitude, I believe that putting a sunset clause into a very small Bill at this time is a prudent act and one that we should take.

Lord Lipsey: My Lords, I thoroughly agree with every word the noble Baroness, Lady Barker, has uttered. Let us face it, depending on this afternoon's decisions in this House, after the election there will be a further debate to refine the arguments and discuss the costings and administrative implications. At the end of that process, the Government of that day may decide to proceed with the Bill. In that case, this amendment is otiose. It will have no effect because the Bill will be in force within two years. The other way things could go is that the Government, after an election and after that due process of debate, may conclude that this Bill is unaffordable or irredeemably unfair. In that case, I hope we will be looking for a consensus in the way forward. But if this Bill is still on the statute book, that is going to be harder. There will be organisations for the elderly, which, as the noble Baroness, Lady Thornton, has said, support the Bill in principle but not always in practice, and which keep on hankering after it, saying, "If only we could persuade the Government to implement it". They will not be inclined to go along with the search for consensus. The sensible thing is for the Government of that day to conclude that this scheme is not going to work and is not the way forward and that not only should the scheme die but also the legislation which gave birth to it so that we can move on to the next stage of designing the kind of policy for the long-term care of the elderly that they need and deserve.

Baroness Thornton: My Lords, this amendment in the name of the noble Baroness, Lady Barker, inserts what is known as a sunset clause and would require the Act created by this Bill to lapse automatically after two years if the powers within it have not been used to make regulations. It is our intention to use the powers enabled by this Bill to introduce regulations that will come into force from 1 October 2010 so that those most vulnerable and most in need can benefit. We have made a working draft of the regulations publicly available at an early stage and have been working with stakeholders to develop these in order to successfully implement the scheme. This is a strong indication that we intend to use these powers as soon as is practicable. We will seek to publish a further draft of the regulations shortly which reflect the outcome of the consultation. As I have said, this Bill is the first stage of a reform agenda towards a national care service. As we develop those plans, we will, of course, need to look at the bigger picture, but the future direction of travel is quite clear. It is our view that there is no reason for the Act to lapse after it is given Royal Assent and placed on the statute book. I therefore ask for the amendment to be withdrawn by the noble Baroness or, failing that, for it to be opposed by the House.

Baroness Barker: My Lords, I understand the noble Baroness's predicament. None the less, I am not persuaded by her argument. Whatever the next Government's hue, they are going to have to have the political capacity to, I hope, lead a consensus towards some very difficult decisions. A great deal of historical

[Baroness Barker]
baggage will have to be ditched in order to come up with a solution which is in the best interest of those older people who are in most need and least financially capable of paying for their own care.

The Archbishop of York: Before the noble Baroness sits down, does she not agree that we should legislate on questions of principle and not in anticipation of the colour of the Government likely to come into being? Otherwise, we would never legislate. If the principle is right that restrictions should be removed on who can be provided with care free of charge, we should legislate for it. If an incoming Government find that difficult, that will be their business. But a legislative body should legislate on the principle of whether the Act is right and not because it is anticipating the difficulties of another Government coming into being.

Baroness Barker: The most reverend Primate raises an entirely fair point. He will forgive me for saying he did not take part in the previous debates. Had he done so, he would have seen that noble Lords in all parts of the House have major objections to this Bill on grounds of both principle and practicality. My own disagreement on point of principle is not that I do not believe that older people need personal care but that this Bill currently stands to favour many people who can pay for their care themselves, rather than targeting those who cannot, and I rather fear that will be at the expense of services for people who are poorest in our society. So it has been a matter of both principle and practice and I wish to test the opinion of the House.

6.28 pm

Division on Amendment 7

Contents 125; Not-Contents 112.

Amendment 7 agreed.

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Child Poverty Bill

Third Reading

6.39 pm

Clause 1 : The 2010 poverty target

Page 1, line 10, leave out from "the" to end of line and insert "relevant income group for the purpose of section 3 (the relative low income target)"

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): My Lords, this is a minor and technical amendment that removes inconsistency in the use of terms in Clauses 1 and 3. The amendment ensures that the wording of Clause 1(2) is consistent with other references in the Bill to "relevant income groups"; for example, in Clause 15(1)(a) and paragraph 8(1)(a) of Schedule 2. I beg to move.

Lord Freud: As noble Lords will be aware, we put forward an amendment to Clause 1, which was accepted by the Government. This is a technical amendment that we are entirely happy to accept.

Amendment agreed.

Motion

Moved by ***Lord McKenzie of Luton***

That the Bill do now pass.

Lord McKenzie of Luton: My Lords, I will say a few words of thanks to all noble Lords who participated in the Bill. It has been an interesting and challenging process, and noble Lords have done their job in holding the Government to account. Most importantly, the Bill provides significant challenges to government both now and in the future. I should like to place on record special thanks to members of the Bill team for the support they have given to me and to my noble friend Lady Crawley. They were put on their mettle by noble Lords, not least in respect of the forensic analysis of data and targets; but they delivered at every turn and I thank them.

Lord Freud: Perhaps I may join the noble Lord, Lord McKenzie, in thanking members of the Bill team for all their work. I know that noble Lords put many difficult and technical questions to them, and enjoyed receiving back their best efforts and solutions. They did a sterling job and noble Lords on all Benches are grateful to them.

Baroness Thomas of Winchester: My Lords, just so that we on these Benches are not left out, we thank the noble Lord and the whole Bill team for listening to our concerns. We are very pleased that the Bill will make ending child poverty a priority for whoever forms the next Government. That is very important.

Bill passed and returned to the Commons with amendments.

Social Security (Housing Costs Special Arrangements) (Amendment) Regulations 2009

Motion to Resolve

6.41 pm

Moved By ***Lord Freud***

That this House regrets that Her Majesty's Government have laid before Parliament the Social Security (Housing Costs Special Arrangements) (Amendment) Regulations 2009 (SI 2009/3257) without providing more information on the impact on claimants, and notes with concern the risk that Parliament may lack a basis on which to assess whether the measure has been effective or represents good value for public money.

Relevant Document: 5th Report from the Merits Committee.

Lord Freud: My Lords, I have laid my regret Motion today to give the House the opportunity to discuss the issues raised in the 5th report of the Merits of Statutory Instruments Committee. The committee's report made clear in its summary that there were significant concerns with the explanatory material surrounding this statutory instrument. Money has been both paid out and withheld in opposition to the policy intention. To compound the confusion, there is a complete lack of certainty about the number and magnitude of these errors.

I am sure we would all admit that the benefits system is now appallingly complicated. Trying to define how different benefits impact on each other is a task that I doubt many would undertake with enthusiasm. However, that is no reason for such a task not to be undertaken. I am glad that the department offers training sessions to welfare agencies to explain changes in the rules. I wonder whether the Minister could fill us in a little more about these sessions. How frequent are they? Are there routine refresher courses, or are they limited to the areas in which there have been new regulations?

Of course, an obvious way to reduce the need for these courses would be to reduce the number of changes made to the regulations. From the committee's report, it is apparent that the Minister's department has not met the usual standards expected in regard to secondary legislation. I wonder whether he can tell me how many pieces of legislation have been produced in

[LORD FREUD]
recent years by the Department for Work and Pensions that correct errors or clarify confusions in earlier Acts or statutory attachments. Such unnecessary work not only for this House and its committees but also for the department and, of course, the agencies tasked with implementing the rules would be much reduced if the department got it right first time. In future, I hope that the Government will take more care.

It is unfortunate that even after the Parliamentary Under-Secretary of State was hauled over the coals for errors and lack of information, the Explanatory Memorandum tabled with the regulations contains trivial errors. It lacks the necessary reference to the related SSAC report, for example, although a space has clearly been left for the information to be inserted. That is a small point and one on which the Minister's office has been extremely helpful and prompt in rectifying, for which I thank him.

When such mistakes are made, one can sympathise with the chairman's evident frustration with the quality of information with which he was provided during the evidence session in January. The Parliamentary Under-Secretary indicated that she would be reviewing the relevant procedures when she answered the committee. I hope that the Minister will be able to tell us how that review has gone. Have any changes been made to stop these sorts of problems happening again?

I wonder whether the Minister will be able to give us a little more information on the detail of the errors which this SI is to rectify. In January it was thought that between 50 and 100 households could have taken advantage of the loophole but that none actually did. Is that still the case, or has any further information come to light? The cases of underpayment are much worse. A cumulative total of £17.2 million was suggested in the evidence session. That is a significant sum and one which was much exacerbated by the length of time it has taken the department to correct the error. Can the Minister give us an estimation of how much the extra statutory scheme will cost before all the money has been paid and how long does the Minister expect that to take? Will recipients be expected to apply for their entitlement or will the department do the work of seeking them out and giving them the money?

This entire episode has not reflected well on the Government. Although I am quite certain that the wider world will remain sublimely uninterested in such technical failings, I hope that the Minister can assure me that such a consideration will not prevent the necessary steps being taken to prevent similar occurrences in the future. I beg to move.

Lord Kirkwood of Kirkhope: My Lords, I support the Motion tabled by the noble Lord, Lord Freud. He is absolutely right to table it and all his questions are pertinent and important. Some may be technical but they go to the heart of enabling us to discharge our duty to scrutinise these very technical issues.

In the atmosphere in which this original decision was taken—probably by the then Secretary of State, James Purnell—the instinct was right. The policy intention of trying to protect people from losing their homes was absolutely right. In 2008, when these decisions were originally taken, there was a possibility not only of people running the risk of losing their jobs but also of the tragedy being compounded by them losing their homes as a direct result of something not being done. Earlier evidence from earlier recessions suggests that that was a real risk. The ministerial decision was right at the time, but everything else after that seemed to go wrong.

Maybe there is a point to be made about the flow of Ministers through the department. They hold office for 15 months, if they are Secretaries of State, and if they are lucky. We have had 20 or so Ministers for Pensions with almost the same number of Parliamentary Under-Secretaries. The advice I would give to the department, and one of the lessons that we learnt from this set of mistakes, is that the professionals in the department should say, quite firmly, to Ministers, "Okay you have the authority to make the decision that something has to be done in this area". Then they should be quite firm about the timetable and how the process is managed. There should not just be a press release and another initiative with Ministers taking the credit for making what they believe is the right decision. The department has to feel more confident about saying, "We will do this for you but we are going to do it the right way, and not in a way that will land you in trouble later on". The intention was wholly right and supportable. However, by grabbing at it in a way that I suspect was driven by a political timetable, things went seriously wrong.

I want to add to the list of questions. What worries me most in the long term is that the department is now introducing two-year temporary time limits on substantial benefits by statutory instrument, without consultation. That is a disturbing precedent—there is no other adjective—and I want an assurance from the Minister that wholly exceptional circumstances led to that. Again, I suspect that it was driven by Mr Purnell for whom I must say I have a great deal of time, even though I have just criticised him. The two-year temporary provision was not necessary. As far as I have read the papers there was some £5 million a year, I think, at stake in terms of the temporary nature of the provision. The Minister might clarify that as I could not make sense of what it would cost to have run it on beyond two years. The combination of the temporary provision and the lack of consultation is worrying.

We all know that the benefits system is ineffably complicated but the defect at the heart of these regulations is the fact that somebody could artificially come out of a claim, make a new one and take advantage of the higher benefit levels. That is not an intrinsically complicated part of the benefits system but the kind of thing discussed in the corner of the bar of the Dog and Duck every Friday night. You need not be a highly paid departmental lawyer to work out that maybe people will take advantage of that, and it should have been entirely foreseeable. I do not accept that this is some complicated bit of legal text whose consequences people did not understand. Anybody who had given two seconds' thought to bringing in the regulations in this way could see that artificially breaking the claim to come back in and get more money was a foreseeable risk. That was pretty shocking—I expect the department to be better than that. To describe it,

as the Parliamentary Under-Secretary of State did to the Merits Committee, as an immensely complicated exercise which led to the mistake, is just wrong.

There was an inadequate response to the Merits Committee report, which I read carefully. The chairman in a very gracious way made it quite clear that the committee was absolutely fed up at how it had been treated by the department. The noble Lord, Lord Freud, was right about that. I noticed that the Parliamentary Under-Secretary of State rather fingered the Permanent Secretary by referring to him at least three times and saying that he was instituting training. Latterly, the Merits Committee found out that the people who made the mistake had gone through the training anyway, which is an interesting vignette in itself.

The Permanent Secretary must get a grip on this. If anyone is called in future by the Merits Committee to explain similar circumstances I hope that they will ask for Mr Leigh Lewis to appear in person and explain himself. He is an experienced and good Permanent Secretary but he must carry the can for this. The Merits Committee was right to exhibit displeasure and I hope that it will continue to do so. By the way, I hope that the training is now in place for everybody in future who gets anywhere near this kind of stuff.

Another point is evaluation. Having read these papers carefully, I do not think that there is any chance of evaluating the effectiveness of this policy at all because there are no baselines of any kind. It is not a huge spend—I accept that, particularly since it is time-limited—but it is impossible to evaluate the effectiveness of this increased amount of public money as there is nothing against which to measure it. That is regrettable.

I do not want to read too much into this but there was an exchange in the Merits Committee between Mr Howarth, who is the lawyer, at page 31, when he was asked by the noble and learned Lord, Lord Scott, about extra-statutory payments. He seemed to suggest—and I am really looking for an assurance that this is not the case—that extra- statutory payments were okay as long as they were within the Treasury budget limit for the programme cost. I do not think that the House can accept that. Extra-statutory payments—gratuitous payments—by the department are wholly exceptional. For the department to say, "Never mind, we can pay money gratuitously to people because it doesn't bust the amount of money the Treasury has given us to do this", is completely unacceptable. I may be reading too much into the sentence at the bottom of page 31 in the Merits Committee's fifth report but I would not mind a reassurance that we are going nowhere near that kind of territory. If we are, the House will want to know more about that, and rightly so.

The SSAC and the Merits Committee have both done an excellent job. To come back to an important point made by the noble Lord, Lord Freud, I am a DWP watcher and had an immense amount of difficulty from home in tracking down the SSAC document, as it did not have a number. I do not think that that is the fault of the SSAC, but is something to do with the fact that HMSO or TSO are tardy when it comes to putting reference numbers on documents. The document that I eventually found had no number on it anywhere. If people are doing their best they can to keep up with some of these technical arguments, a good way of confusing them is not to give references or links to documents that people can understand. These were complicated circumstances concerning an amended set of regulations that we were amending. It was not easy even for somebody like me, who has been following these things for quite some time.

The SSAC also put its finger on an important point. There should be a fundamental review of homeowners' costs in future. Anybody who thinks that homeowners will be trading themselves out of repossession territory within the next two years misunderstands the dilemmas, financial and economic difficulties that the country will face in the next comprehensive spending review period. Two years will just not do it. Therefore, we should be looking at how we spend money to support these people in future. I cannot understand why we did not just flush the extra Treasury money through the existing system. Of course, that would have meant people waiting for longish periods, and there are benefits of the new system. I absolutely understand that. But if people—particularly debtors or people threatened with repossession—knew that there was this amount of money flushed through the old rules, it would have given them a lot more comfort and the same effect would have been achieved without all this complexity. This has not done credit to anyone. We seem to have snatched defeat from the jaws of victory, with a good policy going horribly wrong because of how it is administered.

I finish where I started. I think that this was the right thing to do, but I hope that we will learn lessons. The noble Lord, Lord Freud, is absolutely right and has done a service to the House by bringing the regulations to our attention so that we can examine them and try to learn lessons so that such things do not go wrong in future.

7 pm

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): My Lords, I start by thanking the noble Lord, Lord Freud, for bringing forward the Motion, which has given us a chance to discuss the issues. I have listened with great interest to the points that have been made.

I am bound to say that I found the contributions a little unbalanced. In particular, it was difficult to understand the criticism about process. There was no great recognition of the substance of the regulations. Perhaps I can start by explaining why the Government introduced the regulations.

The changes to the support for the mortgage interest scheme were announced on 2 September 2008 as part of a major cross-government package of new measures to meet the challenges in the housing market at that time. Doing nothing would have increased the risk of homeowners losing their homes. Although we initially intended the regulations to come into force in April 2009, we decided to bring forward their introduction to January 2009 in the light of the increasing and fast-moving effects of the economic downturn. We thought it

[Lord McKenzie of Luton]
important that working-age benefit customers with mortgages got that additional help as quickly as possible. The changes were therefore in place from 5 January 2009. The changes doubled the capital limit for loans up to which support for mortgage interest is payable from £100,000 to £200,000 for new working-age customers. They reduced the waiting period for mortgage help for new working-age customers from 26 or 39 weeks to 13 weeks from 5 January 2009, and they also introduced a two-year time limit on the payment of support for mortgage interest for some income-based JSA claims—I will come back to that point in a moment.

In addition to those changes, the Chancellor announced in the Pre-Budget Report in November 2008 that the standard interest rate would be maintained at 6.08 per cent for six months. The standard interest rate is used to calculate the amount of help available by applying it to the eligible capital outstanding on a customer's mortgage. The rate applies to all support for mortgage interest customers, both existing and new, including those claiming pension credit.

In the Budget of April 2009, the Chancellor announced a further extension to the 6.08 per cent rate for a further six months. In last December's Pre-Budget Report, he announced another extension of that rate until the end of June this year. He also said that we intend to move towards a fairer, more affordable approach that more closely reflects the mortgage interest rates being charged to customers. That will help to ensure that support for mortgage interest is appropriately targeted as housing market conditions improve.

Of course, we always keep arrangements under review to ensure that they work well. For example, some customers have always had interest rates below the standard interest rate, but we have recently started to receive increased volumes of inquiries about access payments of support for mortgage interest. As a result of the standard interest rate, people receive more support for mortgage interest than is needed to cover their actual interest payments. I am pleased to use this opportunity to tell the House that we will lay regulations tomorrow to ensure that support for mortgage interest payments made to lenders can be applied only to customers' mortgage accounts. Establishing that central principle in legislation reflects our overarching policy that support for mortgage interest is intended to help to prevent repossessions, and that any excess SMI should be used to reduce the mortgage liabilities for individuals, and thus future cost to taxpayers.

Fundamentally, by introducing these measures we wanted to provide help for homeowners at a time of great pressure for many of them. We believe that it was right as a matter of urgency to protect those most at risk of losing their homes. Although I agree that it is always helpful fully to understand the likely impact of any regulations, there are circumstances when that is simply not possible. At the time, given the changing economic situation and the pressure on the financial system, there was concern that a waiting period of 39 weeks was too long. Many customers may have been subject to foreclosure proceedings before they became eligible for support. The capital limit of £100,000 was outdated, given that by 2008 the average house price in the UK was closer to £200,000.

Without reform to those elements of SMI, many families may have found that the support that they would have received would have been too little, or too late, to prevent their home being repossessed. We stand by the decision to introduce the regulations swiftly. If we had not introduced them as soon as possible, customers would have had to wait until April 2009 to benefit from the changes. Instead, as a result of our action, customers benefited from the changes from January 2009, at a time when the effects of the economic downturn were being felt by many hard-working families. That was the right action to take.

By introducing the whole package of measures, we estimate that we have provided an additional £700 million in support to about 220,000 households at risk of repossession. We believe that that support, as part of a wider package of measures, has helped to keep the number of repossessions lower than was originally feared. It should also have helped to prevent a considerable number of families falling into arrears with their mortgage accounts, which, in many cases, may have led to long-term financial difficulty or being forced to sell their home.

The changes have been broadly welcomed by all key stakeholders. There is widespread acknowledgement that they have been effective in supporting the poorest homeowners in the recession and preventing repossession. The Council of Mortgage Lenders said in its budget submission last week:

"We believe that a combination of lender forbearance, low interest rates, lower than expected unemployment during the recession"—

I will not dwell on today's encouraging figures—

"and a variety of government schemes has helped keep mortgage possessions in check and will continue to do so. Having originally forecast 75,000 possessions in 2009, similar to levels seen at the depth of the last recession, our recently published data showed that there were, in fact, 46,000 cases during the year. We have predicted 53,000 possessions in 2010 but have already said that, while we cannot be complacent about mortgage payment problems, our forecast looks a little pessimistic".

A number of other stakeholders have acknowledged that the changes have had a real impact in supporting homeowners and preventing repossessions. They include Citizens Advice, the Building Societies' Association, Advice UK, the Money Advice Trust and Shelter.

To introduce the regulations as quickly as we did, it was necessary to bypass our statutory consultee, the Social Security Advisory Committee. The department values highly the contribution made to policy development by SSAC. We of course take into account views expressed by commentators on consultations undertaken by the committee. We are committed to consultation processes. We believe that stakeholders and others outside DWP have an important contribution to make to the formulation of policy. However, in this instance, after careful deliberation, the Secretary of State decided not to refer the regulations to the Social Security Advisory Committee, in accordance with the statutory provision, because he believed that it was inexpedient to refer the proposals, due to the urgency of the matter.

That decision was not taken lightly. Had we followed the normal process, the introduction of the regulations would have been delayed by many months—which, as I have explained, would have put homeowners at risk.

Ideally, we would have consulted publicly on the regulations before they came into effect, but, on balance, we thought that it was important to get help to people as quickly as possible. We subsequently referred the regulations to the Social Security Advisory Committee in January 2009, and it decided to consult on them. We responded to that consultation in December last year.

The regulations came into effect on 5 January. They clarify how some of the temporary rules that I have described operate in practice and correct a few anomalies in the earlier regulations. They also implement a Social Security Advisory Committee recommendation regarding what we refer to as excess income over requirement cases. This will ensure that the new rules introduced in January 2009 are extended to customers who first claim a relevant benefit on or after 5 January 2009 but who are not entitled to that benefit until the support for mortgage interest component becomes payable. Jobcentre Plus staff are contacting customers who are affected by this amendment—that is one of the points that the noble Lord raised—so that where appropriate they can receive the more beneficial help. However, as this cannot apply retrospectively, the department is setting up an extra-statutory scheme to address any potential shortfalls, of which it will publish details in due course.

The noble Lord, Lord Kirkwood, gave the impression that, simply because there was a bit left in the budget, the department was happy to have lots of extra-statutory payments floating around. That is not the case. There was a situation and there was a policy objective. It was not possible to do this retrospectively so we did it through the extra-statutory route. A very clear policy underpins the approach that was taken.

I stress that all these changes were introduced on a temporary basis in response to the economic downturn and will be reviewed when conditions are more favourable. The purpose of this policy is to support people who lose their jobs in the current economic downturn and to prevent repossessions. This package of measures needs to be assessed against that. We have committed to conducting a full evaluation of the reforms to the support for mortgage interest component by the end of 2010. The aim of the evaluation is to assess the impact of the various changes introduced in January 2009—for example, assessing the number of people affected and the associated costs, as well as investigating the impact of particular subsets of the SMI population.

I will try to deal with the points that were made, but I hope that noble Lords will forgive me if I do not do so in the order in which they were raised. The noble Lord, Lord Kirkwood, referred to training for officials on process, as did the noble Lord, Lord Freud. We fully accept the point about the need for adequate training. We have introduced more training. The Permanent Secretary has stressed its importance, as I do, because the point is well made.

The noble Lord, Lord Freud, referred to the complexity of the benefits system. We have discussed that before and talked about what we have done in seeking to make it less complicated and to simplify it. The reality is that moving towards a more straightforward system takes time and there are costs along the way, but we share the aspiration of a single working age benefit.

Both noble Lords referred to the Explanatory Memorandum. The reference to the Command Paper in the Explanatory Memorandum was intended to be removed but was unfortunately overlooked. The department has responded to the Social Security Advisory Committee's reports by way of Command Papers for many years, but officials were advised at a late stage that it would be appropriate for the department to respond by way of an Act paper. As Act papers are not numbered, the reference should have been deleted. Also, as Act papers are not published on the OPSI website, the link should have been amended to say that the papers are available on the Stationery Office website. I would be happy to write to noble Lords further if that would help on that point.

The noble Lord, Lord Freud, asked about the number of people involved in what he described as errors. Here we are dealing with the cases involving excess income over requirements and the adjustment of the arrangements that causes extra-statutory payments to be applied, rather than the specifics of the regulations. The total number of people listed on the clerical records kept by Jobcentre Plus offices is 2,263. The noble Lord asked about some of the detail of training. I do not have that detail to hand. However, the department holds a regular forum for stakeholders, including welfare rights organisations. Where training is required, we discussed how it can best be delivered. He also asked about the cost of error. We do not have the cost because we do not know how many people will subsequently become entitled until we assess the new claims.

The noble Lord, Lord Kirkwood, asked about the introduction of a two-year limit for JSA customers. I think that the import of his remarks was that it sets a worrying precedent. I stress again that the package of measures is temporary and has a time-limiting aspect; it is not intended to set a precedent. The entire package will be reviewed once housing market conditions are more favourable. We did not decide to make these changes lightly, or to bring them in quickly, but difficult times called for swift action. The current data show that 96 per cent of claimants leave JSA within 24 months. The first time at which this requirement could impact on a JSA claimant would be January 2011.

7.15 pm

The noble Lord, Lord Kirkwood, said that there was no baseline for evaluation. The scale of the downturn meant that it would have been inappropriate to wait to fully develop an internal evidence base before introducing reforms, but officials are currently developing an integrated package of monitoring and evaluation to determine the effectiveness of reforms and are due to report by the end of 2010.

The noble Lord also asked whether officials guided Ministers strongly enough if Ministers wanted to do something more expeditiously than the system provided for. My experience is that officials are pretty robust in helping Ministers to understand what is practical and what is not. He also referred to the longevity of Ministers in the DWP, which I found slightly disconcerting because I have been in the DWP for more than three years. The trouble is that all the others have been promoted, which is rather worrying.

[LORD MCKENZIE OF LUTON]

The noble Lord, Lord Freud, asked how many pieces of legislation we have produced that correct errors or make changes that need to be made because of technical deficiencies. I do not have those data to hand but I am not sure whether they are as extensive as he might think. I do not think that the data are collected particularly, but no doubt if someone has time on their hands they can dig back and see what the number is.

The noble Lord, Lord Kirkwood, referred to what goes on in the Dog and Duck on a Friday evening. Preventing a claimant from flipping to get the benefit of extended provisions should have been provided for, and the amended regulations now ensure that that is covered.

Having said all that, I hope that the noble Lord will not press his Motion. I accept that there are lessons to be learnt from this process, but the fundamental issue is that the Government sought to bring in a package of measures early to help people who were at risk of having their homes repossessed in quite extraordinary financial circumstances. We were right to do so, even if in the circumstances it was not possible to dot all the "i"s and cross the "t"s along the way.

Lord Freud: My Lords, I thank the Minister for that very full answer. I should make it clear, as I hope I did in my earlier remarks, that he and his department have been immensely helpful in this process.

Like the noble Lord, Lord Kirkwood, I acknowledge that this initiative was welcome and that very few people who had to heart the concerns of people who had lost their jobs would think that the initiative was poor. Clearly it was a very difficult period and there was a lot of fear around, so the package was appropriate for the time. However, as a result of the rush and the urgency, some of the processes were less than satisfactory, which I think the Minister has acknowledged in practice.

We have learnt quite a lot about the Dog and Duck from the noble Lord, Lord Kirkwood, which is one aspect of the matter, but the real lesson is the importance of keeping a grip on these rushed initiatives. If these things become too loose in an overly complicated benefit system, you can lose control very quickly. I yield to no one in my admiration for Sir Leigh Lewis of the DWP, who I think is an excellent Permanent Secretary, but I think that he would have to acknowledge that Homer nodded a little on this.

When there is a rush to get something in, it is important that we remember to ensure that we keep things as tight as possible. That is the main point that I would like to make after this rather interesting discussion. As I said at the beginning of the debate, I moved this Motion to have a useful discussion, which I think we have had. On that basis, I beg leave to withdraw the Motion.

Motion withdrawn.

House adjourned at 7.22 pm.

Grand Committee

Wednesday, 17 March 2010

Flood and Water Management Bill

Committee (1st Day)

3.45 pm

The Deputy Chairman of Committees (Lord Brougham and Vaux): If there is a Division in the Chamber while the Committee is sitting, we will adjourn as soon as the Division bells ring and resume after 10 minutes.

Title postponed.

Clauses 1 and 2 agreed.

Clause 3 : "Risk management"

Amendment 1

Moved by ***Lord Cameron of Dillington***

1: Clause 3, page 3, line 8, at end insert—

"( ) entering into voluntary financial arrangements with landowners to keep specified fields ready to receive and hold back water in time of flood and to pay additional compensation for crop loss and soil damage when such flooding occurs"

Lord Cameron of Dillington: For the purpose of the whole Committee stage of the Bill, I declare my interests as a farmer, landowner and as a member of the CLA and NFU.

Clause 3(3) contains a long list of arrangements that can be made in connection with flood risk or coastal erosion risk management. I realise that the list is not, as the Explanatory Notes say, exhaustive or limiting. As I said at Second Reading, I was surprised that there was no mention of the one recourse against flooding that serves to hold back the water of a catchment as opposed to merely accelerating it around the sensitive areas. Clause 3(3)(b) mentions,

"maintaining or restoring natural processes",

but that does not really cover it. We are not necessarily talking about natural processes. Perhaps I can explain.

I am proposing a series of voluntary arrangements or agreements entered into willingly by two separate parties. The local authority enters into a contract with the landowner or farmer who is paid to prepare a field, fields or water meadows for flood relief. There are many examples of what it could be; the local authority might want to dig a two-foot bank around a group of fields or the edge of a field, or the farmer merely puts a 9-inch ploughed strip around the field. It could also involve sluices or a pump where the water can be pumped away from the river or into an area that can hold the water, not necessarily adjacent to it. The farmer is then paid an annual retainer for holding his land in readiness for such an eventuality. When flooding occurs or is likely to occur, the farmer, at a signal, or the local authority, floods the relevant area of land. The farmer gets extra compensation for the loss of his crop, including a profit, as well as for any soil damage that might occur. It will not always be appropriate. Sometimes concrete is the only solution. As I said at Second Reading, in a big river, hard defences and the inevitable acceleration of water downstream can only cause extra problems for those at the bottom end of a catchment.

Therefore, any decent local flood risk management strategy should consider such soft defence mechanisms wherever possible. It seems to me that, in an admittedly non-exhaustive list, which contains 10 possible options, to have no mention at all of modern soft flood defence mechanisms is remiss. As the one form of defence that is truly sustainable and helps to relieve a whole catchment, as opposed to putting in a quick fix for some localised built-up area, such soft flood defence mechanisms are worthy of consideration. I beg to move.

Lord Greaves: My Lords, I have Amendment 2 in this group, which would add to the end of Clause 3(3),

"but they do not form an exclusive list".

The noble Lord, Lord Cameron, referred to the list not being exhaustive or limiting. It is clear that it is not because of the way in which it is phrased, but it is a very strange clause. I support the noble Lord's amendment, which seems entirely sensible.

Clause 3(3) is a very odd bit of the Bill. It starts off by stating:

"The following are examples of things that might be done in the course of flood or coastal erosion risk management".

It gives an exemplification of the powers that the risk management authorities will have. I have never seen anything like it in a Bill before. When putting forward these things, the Government veer between two different points of view. Sometimes, they set out clear powers—sometimes, they are duties—for authorities, showing what they are able to do. In other cases, they will not provide such a list—we are always being told that the Government do not like lists. Very often, the Government will put forward some very general powers for a body that they are setting up; opposition parties will put forward all kinds of additional things that they think should be in a Bill; and the Government will say, "No, that's a list. We don't like lists". They do not like lists because there is a real danger that they will at some point be regarded as being exclusive. Even if the wording is very vague, such as a list of examples of things that might be done—which hardly confers a power; it is just an exemplification—people will say, "No, that isn't in the list and therefore the Government really didn't mean it to happen". When matters reach the courts, as they sometimes do, the court may well take the view that things set out in the legislation were clearly intended and other things were not.

My amendment, first, draws attention to the unusual wording of the subsection; that is:

"The following are examples of things that might be done".

It is extraordinary wording to have in primary legislation. It is almost as if one is writing an article about the legislation halfway through it.

Secondly, the amendment makes it absolutely clear that while the actions listed in the subsection are no doubt worthy and desirable, there may nevertheless be lots of other things which could be done. The fact that the list, unusually, is in the Bill does not mean that other things cannot be done.

Lord Taylor of Holbeach: My Lords, it occurs to me how appropriate it is that we are here discussing flood and water management in, of all places, the Moses Room. I start by declaring my interests. They are fairly extensive, I regret to say, in this case, but the House asks us to declare them in Committee. I am a landowner, farmer and grower, working in a family farming business—it is just three metres above mean sea level, so drainage is very important to it. We are members of the National Farmers' Union and the Horticultural Trades Association, both of which have made submissions on the Bill. I am a member of a number of other bodies connected with farming and horticulture which have a general interest in the Bill. More directly, however, I am vice-president of the Association of Drainage Authorities, which represents the engineers and administrators of bodies engaged in flood and water management. Specifically, my nephew is one of my co-directors in the family business and is an elected member of the South Holland Internal Drainage Board, which is in turn part of a consortium of drainage authorities in eastern England called the Water Management Alliance. We are also, as a family business, members of the Holbeach Marsh Irrigation Co-operative, which plans to manage the water supply to some of the country's most productive agricultural land.

I thank the noble Lord, Lord Cameron, for opening our scrutiny of the Flood and Water Management Bill with this first amendment, which goes straight to the question of what happens when flooding occurs. As has been said numerous times, the Bill is, on the whole, a good one and rightly has widespread support. The Pitt recommendations for dealing with flooding cannot be implemented soon enough and we look forward to getting the legislation in place.

Plainly, we hope to minimise the disruption caused by flooding because we know that from time to time—indeed, perhaps increasingly frequently—floods will occur. It is therefore very sensible of the noble Lord to raise the question of what arrangements are put in place in the event that a flood does happen. Clause 3 gives a very helpful list of suggestions of what risk management might include. There are 10 suggestions in Clause 3(3), which one imagines were put in by the Government as a guide as to what the Environment Agency and local authorities should be considering when they develop their risk management strategies. The Bill is reasonably carefully worded to make it clear that these are examples, which of course may not be suitable in every circumstance.

The noble Lord has added his amendment to that list, so that those responsible for framing the strategies might also consider coming to an agreement with landowners to make preparations for land to hold flood water when needed. The suggestion is a good one. Plainly, when a flood occurs, water will go somewhere. Why not then plan ahead so that identified fields can be kept in preparation? The better prepared we are for flooding when it happens, the better we ought to be able to ameliorate its consequences. There are washlands in the Fens which serve exactly that purpose, and the owners and occupiers of that land are well aware of the use to which it might be put at a time of crisis.

I am interested in the noble Lord's proposal that the arrangements, which would be voluntary, must recognise the financial impact on landowners. In the recent Cumbrian floods the devastation wrought was widespread, and it will take a long time, if ever, to get back to normal. I spoke to one farmer whose land was inundated and was afterwards left strewn with what officials described somewhat euphemistically as "gravel" but which you or I might classify as boulders and which logistically will be very difficult, if not impossible, to remove. The economic consequences for that farm and for the area in general will be long-lasting. If an arrangement can be made so that use is made of flooded fields as a sort of holding area for flood water so that the landowner sees a benefit, that might help to ease the situation.

I note that the noble Lord's proposals are voluntary so far as concerns remuneration. I suspect that that is the right approach and that it would allow flexibility in different situations. This flexibility is the key to risk management, given that it would be absurd to try to micromanage it in legislation. The list of examples is useful for reference but should not become a binding or definitive checklist. The noble Lord, Lord Greaves, is right, too, to point out with his Amendment 2 that the list is not exclusive but that it can and should be augmented with approaches that suit local circumstances. I cannot help but sympathise with him about the inconsistency of the Government's position on this list in particular and their position in general on lists in primary legislation when either he or I seek to introduce them.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham): My Lords, I am grateful to the noble Lords who have spoken and for the constructive beginning that we have made. I assure the noble Lord, Lord Taylor, that it is entirely appropriate that we are in the Moses Room; there is no division between us on this amendment. Just as Moses was the unifier of his people, I hope that I can unite the Committee on this group of amendments.

With Amendment 1, the noble Lord, Lord Cameron, is seeking to provide for financial arrangements to be entered into with landowners to keep certain fields available for flooding with compensation payable for losses suffered. I assure him that we have absolutely no argument to make against this concept. I want him to withdraw the amendment because I assure him that it is unnecessary. The practice is already permitted as a method of managing flood risk under the broader range of works powers in Schedule 2—which is important in relation to these issues—combined with the incidental powers of these authorities to enter into agreements, and powers to give grants under Clause 16 or existing statutory powers.

4 pm

The flood risk management authorities also have the powers, under the Environment Act 1995 and the Land Drainage Act 1991, to acquire land and interests in land which will allow them to take precisely the action to which the amendment of the noble Lord, Lord Cameron, refers. If I thought that the amendment was necessary because the legislation does not provide for meeting exactly the point that is indicated by the

noble Lord, Lord Cameron, I would take a different view. However, it is unnecessary because the powers are there.

That is also the case with the amendment of the noble Lord, Lord Greaves. I understand that he described government Bills as the famous Morton's fork. They are either too detailed, in which case it is necessary to add to the list an objection to prescription, or they are too loose and, therefore, he wants them defined more accurately. I can never make the noble Lord, Lord Greaves, entirely happy with any approach to legislation that we produce, but I hope I can make him happy at least with regard to this amendment. We do not need the words "not … an exclusive list" because that is exactly how the legislation is constructed. The first sentence of Clause 3 makes it quite clear that this is not an exclusive list. It is a list which clearly identifies key areas. Noble Lords should appreciate the obvious fact that the Bill provides for a change in the approach to flood and coastal erosion risk management. The list in Clause 3(3) provides for a better understanding of the sort of approaches that might be used. It is not meant to be exclusive.

We are creating legislation that we trust will stand the test of time, as I have indicated in the well attested case of the noble Lord, Lord Cameron. We need to ensure that we have the powers for that. I can assure the noble Lord of that. I hope the noble Lord, Lord Greaves, will therefore forgive us on this occasion for having produced a description of the kind of powers that are necessary. It is not drafted as an exclusive list and, therefore, does not need the noble Lord's amendment to make clear what is already in the clause. With those assurances, I hope the noble Lord, Lord Cameron, will feel able to withdraw his amendment.

Lord Greaves: I thank the Minister for stating clearly that it is not an exclusive list. Perhaps he will be quoted sometime in the future when somebody claims that it is. If that is the case, I will have achieved what I wanted to achieve today.

I thank the Minister for his kind remarks about the fact that I always look at legislation critically. The Minister talked about Moses. When I started teaching, some of my pupils called me Moses, at a time when my hair was much more luxuriant than it is now, on top, at the back and under my chin—a bit more like that of the gentleman in the picture. If I had been around when Moses brought down the tables of law to the Israelites, I would have wanted to move some amendments to those tables.

Finally, I forgot to declare my interest at the beginning of this new stage, as I often do. I declare an interest as a member of a local authority, which, if this legislation goes through, will become a risk management authority.

Baroness Byford: I ask the noble Lord for some clarification. I declare my family's farming interests. We are not directly involved in any aspect with regard to this Bill, but the interest should be declared. The Minister said that there are already existing powers in existing Acts, which I am happy to accept. Are those powers voluntary or compulsory? Could one local authority take a different view from another? Clearly, it would seem unfair if different sets of rules apply in different circumstances.

Lord Davies of Oldham: My Lords, we produced the list because those are the most likely areas of activity. However, as I have indicated, we already have legislation in place which also covers these activities. We have great experience in this area and this constructive Bill takes us a considerable stage forward. That is why it has been welcomed on all sides.

The powers to which the noble Baroness referred are permissive powers for the authorities. I do not think that she would want them any other way. They are about local decision-taking and local discussions with local interests—that is the way in which the noble Lord, Lord Cameron, identified the necessity—and it would be the responsibility of the locally based authority to reach a decision. For obvious reasons, we would shy away from imposing this position upon the local authorities. The noble Baroness may feel more secure with the compulsory aspects—the noble Lord, Lord Cameron, would be quite fertile in giving illustrations of how these might work in a particular local authority—but they would have to be considered at a local level. That is why we have made it discretionary in those terms.

Baroness Knight of Collingtree: My Lords, perhaps I might briefly seek enlightenment. I have tried carefully, through reading the whole of the Second Reading debate and these amendments, to understand the position. However, I have a query in my mind and I should like to be absolutely clear about the precise situation. The noble Lord, Lord Greaves, mentioned that this function would be the responsibility of the local authority. However, in connection with the amendments we are discussing, the make-up of the risk management bodies is still not clear to me. Is it the case that the responsibility for sorting out this function will be on the shoulders of the local authority? Will an extra local council committee be set up to deal with it?

Aligned to that, in many parts of the Bill which refer to the precise activities with which these committees will have to deal, "coastal erosion" is lumped together with "flood management". However, there are many parts of this country which have no coastline and are hundreds of miles away from the problem of coastal erosion. Later in the Bill there are references to "or" coastal management but here it refers to "and" coastal management. I do not want these committees to be loaded with coastal erosion difficulties when their areas will not have those problems. Can the Minister be clear about this: will they be totally local authority people or will others join them? Will their remits cover only matters which are quite clearly in their area, and will they not have to bother with other matters which are not?

Lord Davies of Oldham: Without going through the Bill clause by clause and itemising the words I cannot reply in full to the noble Baroness. However, we have a plethora of amendments which identify the relative powers and where the boundaries are drawn. We will certainly clarify these issues during our debates in Committee. I know that the noble Baroness has the closest possible historical and current associations with the city of Birmingham, but we are not including it within the framework of a coastal authority. However,

[Lord Davies of Oldham]
as the noble Lord, Lord Taylor, said, a local authority will be involved in the coastal risk position, although the Environment Agency has greater responsibilities than it may have.

I have a brief description that may help the noble Baroness, but I am shying away from going through every clause that identifies the relationship. However, the Bill provides for lead local authorities—counties or unitary authorities—to be responsible for the surface run-off, groundwater and minor water courses. Responsibility for coastal erosion remains with the maritime districts—not Birmingham, as far as I know. I know that Birmingham stretches on water as far as Elan Valley, which is fairly deep into Wales, but it does not stretch to the coast. The Environment Agency retains its responsibility for that crucial aspect: coastal erosion. That is the best I can do for the time being, but we will clarify these issues. The noble Lord, Lord Taylor, and other noble Lords will make sure that we do that in our deliberations.

Lord Cameron of Dillington: My Lords, I thank the Minister for his reply to my amendment. I realise that what I am proposing is possible in the current circumstances and after the Bill has gone through. However, I believe that if a clause gives examples of things that might be done in the course of flood risk management, some reference to soft flood defence mechanisms would be beneficial. All too often, engineers revert to their old training, work in a framework in which they feel comfortable and in which they understand the risks involved and go for the concrete solution. I realise the proposition I put forward is only an example of soft defence mechanisms, but some mention of them would be beneficial. I hope that the Government will give some thought to the views put forward in this debate. I beg leave to withdraw the amendment.

Amendment 1 withdrawn.

Amendment 2 not moved.

Clause 3 agreed.

Clause 4 : "Flood risk management function"

Amendment 3

Moved by ***Lord Davies of Oldham***

3: Clause 4, page 3, line 20, after "function" insert ", under an enactment,"

Lord Davies of Oldham: My Lords, I shall speak also to Amendment 5, which is also a government amendment. I shall then restrain myself from commenting on the amendments tabled by the noble Lords opposite before they have the chance to deploy their case. I shall address myself to those points when we reach the concluding remarks.

Amendments 3 and 5 are in response to Delegated Powers and Regulatory Reform Committee report. I emphasise again how grateful we are to that committee for the enormous work it does and the guidance it offers us when we are considering Bills at this stage. The committee recommended that the order-making powers in Clause 4(2)(f) and Clause 5(2)(c), which enable the Secretary of State and Welsh Ministers to add new risk management functions, should be confined to adding statutory functions only. As currently drafted, the power could, for instance, allow the addition of administrative functions. This would mean that Parliament and the National Assembly for Wales would have the opportunity to consider the appropriateness of a function in the course of the parliamentary procedure relating to the legislation creating those functions. This recommendation accords with the way that we intend to exercise this power, which is why we are entirely happy to accept it. The amendments we propose confine the power to add new risk management functions to statutory functions of risk management authorities. I shall listen to the arguments noble Lords make in advocating their amendments. I beg to move.

4.15 pm

The Duke of Montrose: My Lords, on behalf of my noble friend Lord Taylor of Holbeach, I shall speak to Amendments 4 and 6 in this group. I should declare an interest as a landowner, although not as one affected by this legislation. The first two clauses of this Bill spend time defining flood, erosion and risk in the most all-embracing terms that one can imagine—specifically, in terms of,

"human health … social and economic welfare … infrastructure, and … the environment".

We now move on to "risk management" and risk management functions. As far as I am aware, this is the first legislation to have the question of risk and safety brought into it and the first, in that regard, to deal with coastal erosion and flooding in general. As the Minister will be aware, it is not exactly the first in the case of dams and reservoirs. I declare an interest as the owner of a reservoir, which has been subject to the current inspection regime.

Section 10(6) of the Reservoirs Act 1975 laid a duty on the inspecting engineer to report to the authority any recommendation that he might make to the undertaker of the reservoir of the action required in the interests of safety. In response to that, the Institution of Civil Engineers brought out its own guidelines, which were published in 1978 as *Floods and Reservoirs Safety: An Engineering Guide*. I am grateful to the institute for confirming all of this. At that date, it already took into consideration the risks to lives and properties downstream and came up with four categories of dams, which it labelled A, B, C and D, and the measures that should be applied to remedy each case.

As your Lordships will see later, this Bill undertakes to redefine a "large raised reservoir" and allows that only those defined as "high-risk" reservoirs will be subject to inspection under the Bill. Does the Minister intend that a function of the risk management authority should be to define dams further, in categories similar to those presently employed by the Institution of Civil Engineers under the Reservoirs Act? If so, perhaps we could go into what implications there might be as we go further into the Bill.

Returning to the amendments in this group, the Minister explained in his introduction that the Government have listened to the recommendations of your Lordships' Delegated Powers and Regulatory Reform Committee, and that he has introduced his

two amendments to curb the powers available to Ministers to change legislation by order. Noble Lords will be aware that this is a recurring theme, in Bill after Bill, and I congratulate your Lordships' Committee on its persistent diligence in flagging up deficiencies in the drafting of Bills. There are a series of government amendments this afternoon, all of which also have opposition amendments grouped with them. We sought to push the Government into making their own changes and are pleased that they have done so. Our amendments add the express qualification that only existing statutory functions can be added to Clauses 4 and 5, and the Bill contains a fairly concise list of the statutory measures that can be included. The Committee has proposed that either the powers in the clauses be confined to statutory functions or they be subject to affirmative procedure. Our amendments follow the latter route, the Government's the former. Is the Minister satisfied that this power cannot be extended to other Acts that might have a bearing in similar circumstances?

Lord Davies of Oldham: My Lords, I am grateful to the noble Duke, the Duke of Montrose, for that explanation of the opposition amendments. I hope to persuade him that the Government now have it right.

On the Government's amendments, while I accept entirely what the noble Duke says about the excellent work that the committee does on government legislation, one reason that I sought to explain them is that, often, the committee is particularly constructive when it sets out how the Government can make their intention more clear while the Government had exactly the intention that the committee is describing. That is one of these cases. We are grateful for the work that the committee has done because it has proposed how we should amend the Bill to achieve our intention more accurately. The government amendment confines the powers to statutory functions, and this makes the powers exactly consistent with our intentions. In the memorandum that we submitted to the committee, we expressed our intention and the committee translated it rather more successfully than perhaps we did originally in the Bill.

However, the power that we propose cannot be used to create a new function. I shall go into the debate about the new function that the noble Duke, the Duke of Montrose, suggested when we reach the relevant part of the Bill. We will be having quite a considerable debate about functions, so he will forgive me if I am not drawn too far down that road yet, for the same reason that I indicated on Amendment 1—that is, we ought not to run before we have begun to walk with regard to these early clauses. I have sought to emphasise that because the risk management authority cannot produce a new function but can only add statutory functions. The statutory functions have already been considered by Parliament, otherwise they would not be statutory. That is why we conceive that this order-making power should be subject to the negative resolution procedure. We agree entirely with noble Lords opposite that if we had not constrained the power within this statutory framework, then the case for affirmative orders would have been unassailable and would have been entirely right. In fact, I flatter Ministers and the officers who serve them so well that that is how we would have conceived of things. We think that, because the power is constrained to statutory functions, the negative procedure is perfectly proper. I hope that the noble Lord will understand why we think we have now answered the issue with the amendments that I have proposed and that he feels he can safely withdraw his.

The Duke of Montrose: Do I take it from that that in the Minister's view the power can be extended to statutory functions from Bills other than those mentioned in the list?

Lord Davies of Oldham: That is certainly so, but the existence of statutory functions means that Parliament has reached a position on the wisdom of those provisions. That is why negative resolutions, which are referred to repeatedly in past legislation, are sometimes debated when an issue is of sufficient salience—but most often of less significance—so long as they are brought before Parliament and properly identified and examined. I speak as a veteran of the Opposition. Each day we had a very limited team who had to collect the list of statutory instruments, which I always seemed to think was a little longer than my arm, and within two days shadow Ministers were expected to have a clear idea of whether they should take action. Mercifully, as members of the Opposition will know only too well, in well over 95 per cent—perhaps 99.9 per cent—of cases, such action is not required. However, the list is absolutely enormous because the issues have already been considered by Parliament. If we were laying down functions that were not statutory, we would have recognised the argument for having an affirmative procedure. That is why we have the negative procedure here and I am sure that that is right.

The Duke of Montrose: I am grateful to the Minister for his explanation but, as he said, the powers might possibly be extended beyond what is immediately visible at the moment. I think that we may want to come back on this but we will study with care what he said and I shall not press our amendment.

Amendment 3 agreed.

Amendment 4 not moved.

Clause 4, as amended, agreed.

Clause 5 : "Coastal erosion risk management function"

Amendment 5

Moved by ***Lord Davies of Oldham***

5: Clause 5, page 3, line 34, after "function" insert ", under an enactment,"

Amendment 5 agreed.

Amendment 6 not moved.

Clause 5, as amended, agreed.

Clause 6 : Other definitions

Amendment 7

Moved by ***Lord Greaves***

7: Clause 6, page 4, line 1, at end insert "permanently or intermittently"

Lord Greaves: My Lords, the amendment appears on its own, slightly to my surprise. The clause defines "groundwater" as meaning,

"all water which is below the surface of the ground and in direct contact with the ground or subsoil".

It occurs to me that there may be instances where groundwater, at certain times of the year, is not in contact with the surface of the ground, however that is defined. It is still groundwater, and it still may be important to contribute to flooding at various times. Groundwater may be an aquifer and it may be what might be called underground streams, particularly in areas of limestone or perhaps chalk. We all know places where there are winterbournes, which flow during the winter and not the summer, for example.

It is equally possible and almost certainly occurs that some bodies of groundwater come to the surface beyond the coast. I am not sure whether "ground" includes the intertidal zone or whether it includes the land below the sea below low water. Without wanting to stray into marine Bill territory, it seems to me that a clear understanding that groundwater may sometimes, for part of the time, not actually be in contact with the ground would be helpful. I beg to move.

Lord Taylor of Holbeach: My Lords, I did not prepare any notes for this amendment, because I was somewhat puzzled about what the noble Lord, Lord Greaves, was proposing. I thought I would listen to him in the hope of having further insight. I am afraid that I am no wiser now than I was when I first came across the amendment.

Water that is not in contact with the ground is something I think of as rain, and I cannot think of any other. I might be mistaken; obviously I stand to be corrected. As I see it, groundwater is much more familiar to people I know as sockwater, and the water that lies below the surface of the ground is a permanent feature of soils. It may be at a depth of several inches or many feet. It is usually a permanent feature of most soils. I understood that that is what this was referring to, but I would like the Minister to clarify the Government's position. Indeed, the noble Lord, Lord Greaves, might like to have another go at explaining what he was trying to persuade us of.

Lord Greaves: There are clearly instances when the groundwater is not in contact with the soil and there is a gap between the surface of the ground and where the aquifer or the underground range takes place. There are times when that drainage does not come to the surface, but it is an important feature of flooding when it does come to the surface.

Lord Davies of Oldham: My Lords, I am eager to take on any responsibility as a Minister, but explaining to the noble Lord, Lord Taylor, what the noble Lord, Lord Greaves, means is not my function. As long as I understand what the noble Lord, Lord Greaves, is saying, that will have to do. The noble Lord, Lord Taylor, will have to get his enlightenment elsewhere.

Of course we thought about this seriously. After all, it is one of the crucial definitions with regard to the Bill. We have defined it as,

"all water which is below the surface of the ground and in direct contact with the ground or subsoil".

That reinforces what the noble Lord, Lord Taylor, understood to be the definition of groundwater. This is a wider definition than that in the water framework directive, and does not only relate to water in the saturation zone of the soil. We think we have the correct definition. We are not sure that Amendment 7 would improve it. In fact, my note says that it might add confusion. I say to the noble Lord, Lord Greaves, that if he has confused the leading opposition spokesman, I am right in my prediction. I am also right in saying that I want the noble Lord to withdraw the amendment.

Lord Dixon-Smith: I shall defer declaring my interest until I speak later. I, too, am interested in this. The problem is that there are three words in here that are what I would call legislative garbage, in that they fulfil no function except perhaps to add confusion. The three words are "direct contact with". If you took those three words out, the meaning would be perfectly plain, and even the noble Lord, Lord Greaves, would understand what the Bill was about. Would the Minister like to take that home when he is thinking about the Bill later and see whether he can clarify the matter in that regard?

4.30 pm

Lord Davies of Oldham: The reason why we say,

"in direct contact with the ground",

is because we are not talking about water that is in pipes. It may be below the ground, but that is a different consideration. We are talking about groundwater in the soil or below the soil level.

I have nothing further to add. I am sure that the noble Lord, Lord Greaves, will help the noble Lord, Lord Taylor, if there is any further confusion, but I am absolutely clear on what the noble Lord, Lord Greaves, wants, and I do not think that it adds to the Bill. In fact, he must confess that it spreads confusion, so we had better stay safely with the Government.

Lord Greaves: I am very grateful to the Minister for his comments. I suppose that what I am really talking about is underground water. I have taken the word "ground" to mean the surface of the ground, or the soil very close to the surface of the ground. If the ground actually includes everything under the surface of the ground until you get to the area where there is no water left because it is too hot or under too great a pressure, I am happy with that. However, I hope that the noble Lord, Lord Taylor of Holbeach, never goes caving because he might get a real shock when he comes across underground lakes. I beg leave to withdraw the amendment.

Amendment 7 withdrawn.

Amendment 8

Moved by ***Lord Campbell-Savours***

8: Clause 6, page 4, line 37, at end insert ", and

( ) the fire and rescue authorities"

Lord Campbell-Savours: I declare an interest in that my former parliamentary constituency included the towns of Keswick, Workington and Cockermouth—

The Deputy Chairman of Committees: We have a Division in the House. The Committee stands adjourned for 10 minutes.

4.32 pm

Sitting suspended for a Division in the House.

4.42 pm

Lord Campbell-Savours: I was declaring an interest—I have to get my breath back because I have only one lung—as my former constituency included Cockermouth, Keswick and Workington. I am in contact with a lot of people up there who have been flooded. My amendment was originally moved in the Commons. It is about placing a clear statutory duty on fire and rescue services to deal with flooding incidents, thereby ensuring that they are properly equipped and trained. I am not arguing that they do not respond already. During the recent flooding in Cumbria, firemen went out of their way, showing great courage and determination, in their efforts to help those who were suffering, but they need proper support. These amendments would secure that objective.

Why does the law need to be changed? In the view of many, particularly the Fire Brigades Union, the law at the moment is incoherent. Fire and rescue authorities have to plan for floods and have the power to respond, but do not have a duty to respond. The Civil Contingencies Act 2004 placed duties on fire and rescue authorities with respect to emergencies, including flooding. The duties include assessing the risks of emergencies and planning to prevent emergencies and to reduce, control or mitigate their effects. Of course, in reality, responding to flooding is a core function of the fire and rescue service and should therefore be treated as such. The public rightly expect firefighters and other professional emergency services to respond to flooding and other emergencies.

4.45 pm

During the 2007 floods, firefighters from scores of brigades outside the flooded areas responded to hundreds of incidents, rescuing more than 3,500 people during that period. The Pitt review recognised all this and therefore advocated a statutory duty. Recommendation 39 of the Pitt review stated that the Government should urgently put in place a fully funded national capability for flood rescue, with fire and rescue authorities playing a leading role, underpinned as necessary by a statutory duty. The Pitt review also noted how fire service personnel worked in difficult conditions, often using personal protective equipment designed for routine firefighting duties, or for infrequent short-duration incidents in rivers, lakes and canals. Fire crews were deployed in normal firefighting PPE rapidly became wet and cold, and risked contamination by flood water.

The floods in Cumbria in November 2009 were a major test of existing arrangements. In Cumbria there were only 64 sets of swift water rescue personal protective equipment. I gained that information from the Fire Brigades Union magazine, *Firefighter*. The Fire Brigades Union in Cumbria reported that the crew trained to carry out swift water rescue was mobilised to pick up dry-suits and SWR equipment when the floods first kicked in but there was generally nothing for them to wear. During those first two safety-critical days that station could not carry out its rescue provision in water because it did not have any kit. The station does not have its own stand-alone supply of kit due to funding issues.

There are 700 firefighters in Cumbria—200 whole-time, based at five stations, and 500 retained-duty firemen at 33 retained stations. Fire Brigades Union reps said that there were firefighters available for recalled duty who were never utilised due to the lack of equipment. The Fire Brigades Union has been trying to get better provision of equipment for the past two years, while retained members do not have satisfactory personal protective equipment to carry out the work that they have been doing. The Fire Brigades Union also reported that some boats did not have engines, while other engines had so little power that they struggled to operate in the conditions. I am sure noble Lords will know the relevance of the boats and engines that I refer to; they were shown on television throughout the period of the most recent flooding.

The amendments that I am moving today were all moved in the Commons, although I have duplicated some of the amendments by placing them under an arrangement whereby they could be introduced to the legislation later by order. I do not know whether my noble friend has had time to see the revised amendments that were tabled yesterday. In the course of Commons proceedings, the Minister, Huw Irranca-Davies said:

"Fire and rescue authorities undoubtedly have a critical role to play in flood response, including flood rescue … That was shown to good effect in Cumbria, but I am interested in the comments of my hon. Friend the Member for Hayes and Harlington about the feedback that he has received".

There has obviously been much discussion between the union and Members of Parliament on the whole question of making this a statutory responsibility. Huw Irranca-Davies also said that the Government support Sir Michael's recommendation that,

"a fully funded national capability for flood rescue should be put in place, with fire and rescue authorities playing a leading role, underpinned if necessary by a statutory duty". —[*Official Report*, Commons, 2/2/10; cols. 224-25.]

He went on to say:

"I want to make it clear, for my hon. Friend the Member for Hayes and Harlington"—

that is Mr John McDonnell—

"and for all those who have spoken in support in the amendment, that we do not reject totally the idea of a statutory duty option 'if necessary', as Sir Michael Pitt said. Our assessment at the moment is that that duty is not clearly needed right here and now, although we are already doing work in that direction".—[*Official Report*, Commons, 2/2/10; col. 225.]

[LORD CAMPBELL-SAVOURS]
The work they were doing was a project which co-ordinated a number of agencies in assessing their flood rescue capabilities.

He then went on to say:

"My hon. Friend also raised the interesting point that an amendment could be introduced later in another place".—[*Official Report*, Commons, 2/2/10; col. 226.]

The amendment I have tabled would defer the requirement to introduce the statutory instrument subject to an order approved by each House. I hope my noble friend will respond positively, as I understand a number of Members of the other place will follow his comments with great interest. I beg to move.

The Deputy Chairman of Committees: I apologise to the noble Lord if I rushed him. I am glad he has got his breath back.

Lord Greaves: My Lords, I have in this group Amendment 43 as an amendment to Amendment 42, although clearly it could apply equally to Amendment 43A.

Before speaking to the amendment, I congratulate the noble Lord on his remarkably eloquent presentation of his case. He has considerable experience and knowledge of these matters over many years, as a Member of Parliament for a part of the Lake District and, indeed, as a former parliamentary candidate in the Pennines in east Lancashire many years ago. In particular, we all appreciate and applaud his interest and involvement in the aftermath of the recent flooding in Cumbria.

The Liberal Democrats strongly support his proposals and we congratulate him on bringing them forward. My amendment is more limited but draws attention, yet again, to a cause which the noble Lord has raised previously—that is, the voluntary mountain rescue services, the moor land services, the fell services and the cave rescue services. These organisations and enterprises are run voluntarily and the people who take part in them are volunteers. They, too, have great expertise, which is not only of huge value in rescuing people from rock faces or hauling them out of the ground when they get stuck, but also in emergencies such as the recent flooding. The mountain rescue services in Cumbria, in particular, received a great deal of publicity for the superb work they did alongside the police, the fire services and so on in the recent floods, and in other parts of the country, such as Derbyshire and the Pennines, where they were equally involved in helping people.

More recently they have assisted in the snow—which is obviously not about flooding, although it could be solid flooding, I suppose—which brought to the Pennines conditions that were unprecedented for 20 or 25 years. The mountain rescue services could reach people who were snowed-up in the more remote areas and take them to hospital or get services to them.

The problem is that, as voluntary services, they are at a financial disadvantage when compared with the other parts of the rescue services. They are not funded by the Government or directly by local authorities; they rely on voluntary income. The mountain rescue services are not eligible for VAT relief in the same way as the RNLI, or in the way that local authorities can reclaim VAT, and, because they are not local authorities, they have not been eligible for money from the Bellman scheme following the floods.

This clearly does not address those particular problems, because it is a specific thing in relation to the excellent amendment proposed by the noble Lord, Lord Campbell-Savours. If the fire and rescue services are going to have this co-ordinating role and have a duty to make the provision as set out in the noble Lord's amendments, there should be a provision to include and incorporate the voluntary services, which do so much good, and for providing them with adequate recompense for the costs of taking part in these activities, which otherwise have to fall back on voluntary subscriptions.

Lord Dixon-Smith: Perhaps as I am intervening for the second time I should declare my interests. I am a farmer and landowner in Essex. I have a reservoir—although it is nothing to do with what we are likely to be discussing today—which I caused to be constructed on my land. I also have very long experience of local government and local authorities, although I left that in 1993. I no longer have any technical interest in that, but it does give me a certain amount of knowledge. I join the noble Lord, Lord Campbell-Savours, in what he said about the other services that get involved in an emergency. He spoke very ably on behalf of the fire service, and I wholly agree with what he said, but we need to remember that other services are involved in local emergency planning.

I find the Government's drafting of this part of this Bill to be rather conservative. Local government is not what it used to be. In the olden days, if you went to talk to county authorities in particular, you would be talking at the same time to the police authorities and all the emergency planning authorities. In the sort of situation to which the noble Lord refers, we are dealing with emergency in the widest meaning of that word. I remind the Committee that it was a policeman who lost his life in the flood in Cumbria. The police, equally, need to be very much involved, because it can get to the scale when a flood ceases to be a flood and becomes an emergency—and, as we saw last autumn, that can be an emergency on a really major scale. There is still a local emergency planning system somewhere in local government, I think, but I am not sure; there certainly was in my day. We had to deal with everything from the possibility of a major collapse at a nuclear power station to oil refineries exploding, even right down to small, very sophisticated chemical or medical establishments, which, if they had a fire and things started to escape, could affect a very wide area.

All these services need to be co-ordinated. In fact, generally, if you look you will find that there are plans around to deal with that sort of issue. But we need to take the debate a little wider than the particular remit of the fire service, because other services are involved. The noble Lord, Lord Greaves, mentioned the mountain rescue people. You do not know exactly what is going to be involved when there is a flood, particularly a major flood. One thinks back, as I shall later on in this Bill, to the tidal surge that caused such chaos in the Thames Estuary in 1951; that is not a matter for the Environment Agency alone, or anyone else alone. We need

to think about events that can involve all services very thoroughly. We should really take note of that. I plead that the Minister thinks about this issue before any further stage in this Bill, whatever that stage might be, because it requires very serious thought.

5 pm

Lord Taylor of Holbeach: My Lords, I congratulate the noble Lord, Lord Campbell-Savours, on tabling his amendments on such an important issue. Perhaps I might join with the sentiments expressed by the noble Lord, Lord Greaves, on his diligence in making sure that we learn lessons from the events in Cockermouth and in the Lake District in general. The speeches have reinforced the noble Lord's amendments, because the role of the fire and rescue services in a flooding event is absolutely critical. It has been a remarkable omission from the Bill that they have not hitherto been directly mentioned. While the Bill aims to prevent flooding wherever possible and to mitigate the effects where it happens, we must also be realistic and accept that, unfortunately, severe floods will still occur.

A major part of what we do with this Bill is therefore to ensure that, following a disaster, the mechanisms for getting all the necessary assistance in place have been thought through carefully. The Bill is about integration, and this amendment brings to the fore the fact that the co-operation of the fire and rescue authorities is vital. They ought to be involved at every stage of preparation, because when called upon to act they will be expected to perform almost superhuman tasks. The noble Lord drew attention to the work done in the 2007 floods, and we all saw the role that they played in the 2009 Cumbrian floods. It would be really unacceptable to place demands on stretched services without having a clear plan in place for what role they might play.

This is both a national and a local issue. As we saw in Cockermouth last year, when an event on the scale of those floods occurs local services can quickly be overwhelmed. It was very useful for the noble Lord, Lord Greaves, to bring up the voluntary services that often work in close association with the professional fire and rescue services. Some of them are probably on retainers rather than being full-time, but are none the less highly professional and skilled. It is a point that the voluntary organisations frequently find that they cannot get their kit recovered after an operation such as happened in Cockermouth last year, except by further fundraising.

As we know, the Army was required to come in; it performed a sterling job in those difficult circumstances. I expect that we would expect it to do so again, especially in putting up the temporary bridges that have allowed some semblance of normality to return to those communities which have been cut off—although it is wrong to assume that normality is the existence for everybody up there. There is still a lot to be done. Plainly, that was a very large effort indeed and may have been at the extreme end of the spectrum, but in any adverse circumstances the rescue services will be out in force. How that responsibility is co-ordinated across local flood authorities is certainly a matter of great importance, and I very much welcome the opportunity that the noble Lord has given us to debate it. I will be interested to hear what the Minister says.

Lord Davies of Oldham: My Lords, I am grateful to all noble Lords who have participated in this debate, and I associate my remarks with those that my noble friend Lord Campbell-Savours introduced, and which all noble Lords who have spoken reinforced, about our admiration for the response of the emergency services in the recent floods in Cumbria. We have not the slightest doubt that fire and rescue authorities play a vital role in flood emergency planning and response. They are, of course, category 1 responders as defined by the Civil Contingencies Act. It is because they have such an important role that my response to the noble Lord, Lord Dixon-Smith, is that it is essential, as he said, that those emergency services work closely with local authorities and together.

They need to understand the identified risks and the areas in which those risks lie to ensure that they are adequately equipped to deal with emergencies; I will come to the particular issue of equipment in a moment. Local authorities will need to make use of the knowledge held by the emergency services and understand the limits of their capacity. They have to make arrangements accordingly. However, I emphasise that they are category 1 responders under the Civil Contingency Act 2004, so this obligation and empowerment rests with them by dint of that important legislation.

With regard to my noble friend's amendments, the Government are concerned that they would effectively include fire and rescue authorities as risk management authorities under the Bill. My noble friend knows that the Bill revolves around definitions of "risk management authority". We identified some of the complexities of that when we dealt with an earlier amendment. The Bill is related to flood and water management. We are therefore reluctant to accept an amendment that would include fire and rescue authorities as risk management authorities. That is not because they do not have an important role to play. I have already recognised that, and it is provided for under other legislation. However, all the bodies given this designation in the Bill have a key role in managing and reducing risk rather than in responding to an emergency. That is the definition under the Civil Contingencies Act and where the fire and rescue services properly apply.

All these risk authorities have a role to play in managing water, whether through drainage systems, water courses, reservoirs or otherwise. We will debate this at considerable length as we go through the Bill. They all have a role to play in managing water. Those bodies will be bound by a duty to act consistently with the national strategy and, except for water companies, with local strategies. They must play an active part in putting together these strategies, co-operating with partners and sharing information. We do not think that those are appropriate demands to put upon the fire and rescue authorities.

In Clauses 11(7) and Clause 12(6), we have provided for an order-making power to designate other bodies or persons who must have regard to the local and

[Lord Davies of Oldham]
national strategies in the exercise of any functions that have an impact on flood risk. We feel this is a more appropriate duty for the fire and rescue authorities, who are crucial to tackling floods, but have fairly limited role in managing in the risk of flooding, which is the main burden of the authorities identified in the Bill.

We recognise the excellent intentions behind my noble friend's amendment and that of the noble Lord, Lord Greaves, who spoke so eloquently to his amendment, but together they put a duty on fire and rescue authorities to put in place provision for rescuing people in the event of major flooding, including that from large raised reservoirs. Fire and rescue authorities have an important role to play in response to flooding—we had a recent illustration of that in Cumbria—but they are supported by flood rescue teams from the RNLI, the Maritime and Coastguard Agency and Mountain Rescue, to which the noble Lord, Lord Greaves, referred, which have different resources available. I know that the noble Lord lobbies strongly with regard to Mountain Rescue, and I understand the point he makes. I think I shall give him a little joy on that in a moment. I will never be in a position where I can fully satisfy him with regard to resources, but I shall indicate that a door that may help on his concern is a little ajar.

As my noble friend said in his opening remarks, Sir Michael Pitt addressed the issue of a statutory duty. We support his recommendation that a fully funded national capability for flood rescue should be put in place, with the fire and rescue authorities inevitably playing the leading role. We agree that this should be underpinned if necessary by a statutory duty. However, this is not the Bill for that.

I hope that my noble friend and the noble Lord, Lord Greaves—as well as other noble Lords who have supported them in this debate—will be encouraged to learn that we are taking work forward, bringing together the key stakeholders, departments and responder organisations in a project to improve flood rescue capability and co-ordination. The project has so far focused on putting in place a co-ordinated, multi-agency flood rescue capability. The flood rescue concept of operations, currently in draft, will help clarify the roles and responsibilities of flood rescue responders.

The fire and rescue services and the RNLI are participating actively in the project, having provided project team members as well as sitting on the project board. The Government have agreed that the remit of the Fire and Rescue Service National Co-ordination Centre, established to co-ordinate the mobilisation of New Dimension assets, can be extended to include the co-ordination of the mobilisation of flood rescue assets from all flood responder organisations. I know that the noble Lord, Lord Greaves, will prick up his ears—I hope that other Members of the Committee will be suitably cheered—when I tell him that we are making available up to £2 million in the current spending review to enhance current flood rescue capability. A strategy for how this money can best be used is being developed, and responder organisations, including the fire and rescue service, could receive some future funding—I cannot go any further than that in a debate on this Bill, as the Committee will recognise.

Lord Taylor of Holbeach: What the Minister has just said is very welcome. It indicates that the Government recognise that fire and rescue authorities are an important element of flood rescue. The point that he has perhaps not fully taken on board is that, while they may not be the principal agency for flood management and flood protection, the intelligence that they bring through their experience, particularly in areas which have experienced floods, can be considerable. There seems to be no formal mechanism within the Bill for drawing on the locked-in experience and resources of the people who have dealt with floods on the ground in preparing plans for the management of floods. I think that that is what lies behind the amendments of the noble Lord, Lord Campbell-Savours. The Minister has not wholly taken that on board. It would be nice to know how he saw the mechanism working.

Lord Davies of Oldham: My Lords, I have taken the argument on board. I agree with every Member of the Committee who has spoken on this matter, and I have supported my noble friend. The issue that I have raised is whether it should be a statutory obligation. I do not think that it should be in this Bill, and my noble friend also indicated that he recognised there might be other ways of addressing the issue. He said that if it were thought necessary, it might be possible to introduce such a duty by order. If we are convinced that underpinning of that kind is necessary, we can already introduce an order on fire and rescue services under the Fire and Rescue Services Act 2004.

Therefore, I am strenuously indicating that we are not yet convinced of the necessity for statutory underpinning, but we are totally convinced by the argument about co-ordination. We are putting funding in that direction, even including some voluntary parts of the service that receive no funding at present. It may be that they are reinforced on that point.

I am grateful for the stimulus to debate on this important topic that my noble friend's amendment has provided. I want him to withdraw it because this is not the Bill for that statutory underpinning. We are not even convinced that we need it, but if we were convinced, moved from our present framework and decided that we needed statutory underpinning, we have the powers to do that under the 2004 Act, and that is how we would do it.

5.15 pm

Lord Campbell-Savours: When that point was made in Committee in the Commons, it was said that the power that my noble friend referred to,

"is very specific and narrowly defined, in that it responds only to a particular type of incident. We are seeking a more general and much broader duty on fire and rescue authorities to respond to incidents".—[*Official Report*, Commons, 2/2/10; col. 226.]

Those who have taken advice on these matters disagree with my noble friend's proposition that the 2004 Act would be the applicable vehicle.

Baroness Knight of Collingtree: The Minister said that money had already been allocated for rescue. One can envisage that plans to avoid flood dangers could be in a separate box from plans to rescue people from

floods, but when the Minister refers to money being available, is it ring-fenced money for rescue or could there be a leak? One could envisage a situation where rescue efforts would be expected and would, I know, be provided by these people. If the planning included certain arrangements, it would be easier for rescues to take place. I can see some kind of meshing of this money. It would clarify the situation for me if the Minister could make it plain whether the money that will be made available for flood management is in a different category from the money for the rescue services, which would be solely for them, not for planning.

Lord Dixon-Smith: My Lords, when we get on to money it gets complicated. We have to remember that the money we are talking about is, in effect, an insurance premium. You put money into an insurance premium and keep your fingers crossed, and the insurance companies hope that you will keep paying and that they will never have to pay out. However, we get into the elephant that I raised at Second Reading if we are not very careful. Can the Minister give us an assurance? I do not think that we can predict this sort of liability because it will occur only occasionally and in different places. One hopes that it is not going to occur very often. It is essential to have some assurance that, after such an event, the proper costs of any rescue or safety work that is done, or anything else, can be reimbursed. That provision is really most important.

Lord Davies of Oldham: My Lords, I have tried to emphasise that on this work that we are doing, which is backed up by money—and I had rather hoped that that would bring a constructive and happy smile to the faces on the Committee, instead of raising questions—it is not a question of ring-fencing. It is directed towards the issues that my noble friend raises in his amendment and which have been substantiated by the arguments. The question of the effectiveness of the response by the emergency and rescue services, including those that operate in voluntary capacities, needs to be addressed. We are addressing that and putting money behind the concept.

I am not, as a result of that, going to get involved in local authority finance, government grants or anything else; I am dealing with the Bill. We do not need this as part of the Bill, because if we need to move in the way that my noble friend said in statutory terms, we have the order-making power. Over the years, I have been conditioned to be somewhat wary of being on a collision course with my noble friend, because I know of the thoroughness with which he does his work and I have, from time to time, seen Ministers get into some difficulty from clashing directly with him. However, he will know that after the Commons debate, which he has just quoted and where anxieties were expressed about the order-making power, we addressed ourselves thoroughly to that issue. The response that we gave in the Commons was along the lines of the response that I am giving now; that we have it under the Act.

I have to tell my noble friend that we are in disagreement. The Government's position is that the power is general and broad enough for us to be able to use it in exactly the terms in which I responded to him. I cannot do much more than attest to that, while recognising the problem that I may face. If there is error—there is never error on the Government's side, but if my interpretation of our position is in error—I have no doubt that I shall face that day when my noble friend wreaks retribution, for I am in collision with him here. It is because of that that I think we have the framework that he is after, and I would like him to withdraw his amendment accordingly.

Lord Greaves: Before the noble Lord replies on his amendment, I am perfectly happy to smile at the Minister and thank him for what he said. Two million pounds is not chicken feed, even in this day and age, although it is not as much as it used to be.

Lord Dixon-Smith: It depends how many chickens you have.

Lord Greaves: The noble Lord, Lord Dixon-Smith, thinks that £2 million is chicken feed; it depends how many chickens you have, he says. Perhaps that is why he is a Conservative and I am a Liberal, but there we go. To use a different metaphor; it is not tuppence ha'penny. It would be extremely helpful if the Minister could write to all of us who are interested in this matter of organisations, such as mountain rescue and the wider services, to set out what he has been saying in some detail so that we understand it. We will obviously read what he has said very carefully in *Hansard*.

Let me briefly put the basic point again. The people who, by and large, fund mountain rescue are those who make donations and bequests. A lot of people put what I was going to call their two-bob bits, but they are probably their pound coins now, in the tins on the bars when they go and have a drink after going out on the fell. When they do that, what they expect to be doing is providing a rescue service provided voluntarily by their peers and colleagues within the mountaineering and walking community—because those genuinely are communities—in order to provide a service which they may need at some time, and which their colleagues, or certainly some of them, will need all of the time.

When we see those services providing the kind of service that they did after the flooding in the Lake District and in other areas, when they went to rescue people stranded in their remote farmhouses up on the edge of Saddleworth Moor—somewhere that the Minister knows—we are very proud of the fact that they are able to do that, and that their expertise is being used. We would like the costs that they incur in providing this wider public service to be recognised by the state in some way and reimbursed. I think the Minister suggested that a little bit of this £2 million may trickle in that direction, but we will be interested to see how it all works. That is the fundamental problem. It cannot be solved but some of us at least in this Room will keep raising the matter until it is sorted. On that basis, when we reach my amendment, I shall not press it.

Lord Campbell-Savours: My Lords, first, I apologise for the rambling nature of my first intervention. When I exert myself, I have to sit down for five or 10 minutes before I can speak, but I was caught on the cusp of the amendment and therefore rambled through my speech in a way that I would normally find very embarrassing.

[Lord Campbell-Savours]

I think that my noble friend's final comments were quite relevant. He was arguing that the 2004 legislation to which he referred might be the vehicle for introducing an order that would make provision for what I am seeking. I hope that that is the case. If I remember rightly, my noble friend referred to it as being broad in nature. If that is the case, then that is very good.

Finally, I turn to the question of why we are doing this. Anyone who was in west Cumberland during that period would have realised how important the fire service was. Everyone—the whole community and all the local organisations—was involved but the fire service was seen as being at the very core of what was happening. Therefore, I cannot emphasise enough how important it is that, when the opportunity arises, we introduce this statutory responsibility. Without it, there will always be a Cinderella element to the way that resources are allocated. From the evidence that I rambled through before, it is clear that on a number of occasions people have said, "Well, we're not trained. Where is the equipment?". We must never let that happen again, particularly as we know that in the future there will be a far greater incidence of flooding, not only in the Lake District but also in other parts of the United Kingdom. I beg leave to withdraw the amendment.

Amendment 8 withdrawn.

Amendment 9

Moved by ***Lord Taylor of Holbeach***

9: Clause 6, page 4, line 37, at end insert ", and

( ) Natural England"

Lord Taylor of Holbeach: My Lords, this is another adding-to-a-list amendment. It is a fairly simple probing amendment which would add Natural England to the list of risk management authorities. Of course, Natural England is closely involved in advising the Government on the environment and might therefore be considered as a good candidate to be on the list.

I am aware that a similar amendment was debated in another place, in which the Minister argued:

"Natural England currently has no statutory flood and coastal erosion risk management functions. As such, it has not been included as a risk management authority".—[*Official Report*, Commons, Flood and Water Management Bill Committee, 12/1/10, col. 132.]

I would expect the Minister's briefing to contain similar words. That would seem to be a fairly clear response but I should like to address some of the points raised in that debate. The Minister suggested that Clause 29 would allow Natural England to be included at a later date if it were to gain those statutory functions for flood or coastal risk management. Although that is strictly correct—and the Minister did not suggest that such a scenario would occur—can his noble friend please clarify whether, at this point, the Government have any plans to confer statutory functions on Natural England or whether that has been considered?

I understand that the Country Land and Business Association has already developed a protocol with Natural England on coastal protection, allowing some of the coastal defences to break down so that land can be taken back by the sea. If that is so, Natural England may be considered to be playing a relevant role. I wonder whether its involvement will be adequately recognised under the provisions of the Bill. It is currently not even specified as a consultee. While it continues to play its part in environmental protection, I wonder whether it is worth particular consideration. It may be that Natural England's focus is on the environmental aspects rather than on flood management, but its functions in respect of flood management are so interrelated that it seems incongruous that there is no specific duty on the two of them to work together.

This is a probing amendment, which I have tabled to raise the possibilities of what other risk management authorities that we may wish or believe that we ought to see in the Bill. I beg to move.

5.30 pm

Lord Davies of Oldham: My Lords, I can be reasonably brief in response to the noble Lord's amendment, because there is nothing in his contention with which I disagree at all. As he indicated, the issue was also raised in another place, so there has been some debate on it. In response, we indicated that there was potential in Clause 11 to require other authorities to have regard to the national and local strategies. Clause 29 provides for Ministers to make an order that would allow responsibility to be reassigned between authorities or for additional authorities to be listed as risk management by amending the definition of a risk management authority. If it were the case that, in future, Natural England assumed a flood or coastal erosion risk management function, which it palpably does not at the moment, it would then be possible to list it as a flood risk management authority.

We do not have any plans—to give a direct answer to the noble Lord's direct question—to confer a statutory flood or coastal erosion risk management function on Natural England, although it will certainly work with risk management authorities, because it is in the nature of the work in which they are engaged. If we had intended to confer a statutory function, we would have done so with the Bill, but we do not see that as necessary at this stage. I fully understand the points that the noble Lord makes. It is the case that Natural England in some of its functions will need to relate to these risk management authorities; that is the case without a shadow of doubt. But we do not intend to list them because we do not think that Natural England will engage with all the aspects that a risk management authority has in relation to the Bill.

I assure the noble Lord that his case is well made and that, if it became necessary, and the role of Natural England became significant in those terms, we have provision for that to be possible.

Lord Taylor of Holbeach: I thank the Minister for that very useful clarification. It has helped to put the amendment into context. I beg leave to withdraw the amendment.

Amendment 9 withdrawn.

Amendment 10 not moved.

Amendment 11

Moved by ***Lord Addington***

11: Clause 6, page 5, line 11, at end insert—

"( ) "Social tariff" means a charging scheme designed to reduce charges for either individuals or community groups under sections 43 and 44 of this Act."

Lord Addington: I can be fairly brief about this amendment, which is not so much a probing amendment as a clarification amendment. We are very grateful that Clauses 43 and 44 reflect the ability to pay certain water charges for certain groups who have difficulty in paying or should have caps placed on their charges due to their social function. However, I should like a little more clarification about what social tariffs mean, how those clauses will be expected to work and what the limitations are. That would be helpful for those groups outside who are watching—and that is primarily what the amendment is about. We should like to know whether such concepts as fair and affordable will be taken care of, for instance. I beg to move.

5.34 pm

Sitting suspended for a Division in the House.

5.45 pm

Lord Taylor of Holbeach: My Lords, I admire the ingenuity of the noble Lord, Lord Addington, in tabling a sort of paving amendment for something which we will not get to until the back end of Part 2, where Clauses 43 and 44 lie. They are important clauses; I have no doubt that we will be able to address them along with the Government's amendments at that time. These are important issues. Community group charges and social tariffs are of considerable concern to many people. Should the Committee's deliberations become so protracted that we do not reach those clauses, it is probably as well that we have had an opportunity to recognise them in this brief debate on the noble Lord's amendment.

Lord Davies of Oldham: My Lords, there was I thinking that this was a constructive, short debate when the noble Lord introduced the chilling possibility that we might not reach the appropriate time to discuss social tariffs. Perish the thought. I know that the noble Lord will co-operate with us all in such a way as to make sure that that is not the case.

I shall ask the noble Lord, Lord Addington, to withdraw his amendment, although I recognise that it is well intended and, as the noble Lord, Lord Taylor, indicated, it sign-posts later debates. The amendment is unnecessary. Subsection (1) of Clauses 43 and 44 respectively make it clear that the purpose of the clauses is to reduce charges in specific cases.

The noble Lord asked what a social tariff is. I am tempted to say that it is something that you will recognise when you see it, but that is probably not a good enough description. A social tariff is designed to enable some customers to pay a lower charge than the generality of customers for the service which they receive. We shall have significant discussion on this issue when we get to Clauses 43 and 44, and the noble Lord, Lord Taylor, obviously wishes that we do so as quickly as possible.

The amendment would not achieve anything or add anything new to the Bill. In fact, there is a danger of a certain legal ambiguity because, while Clause 44 uses the term "social tariffs", Clause 43 does not use it at all, referring instead to "concessionary charges for community groups", which is part of the definition. The noble Lord has indicated that we shall have fruitful debates on these issues in due course. For the moment, I hope that he will withdraw this amendment, because it is not necessary and does not add illumination to the Bill.

Lord Addington: My Lords, I thank both noble Lords who have provided me with moral support. The purpose of the amendment, as the noble Lord, Lord Taylor, pointed out, is to run this particular flag up the pole and have it recognised. I degrouped the amendment for the simple reason that the Government have tabled a later amendment. I acknowledge the Government's recognition of how important it is to other groups that the concessionary charging scheme and social tariffs are built into the Bill. It is the concessionary charging scheme which initially dragged me to this issue. I appreciate what the Minister said. Bearing that in mind, and with the promise of more to come, I beg leave to withdraw the amendment.

Amendment 11 withdrawn.

Clause 6 agreed.

Clause 7 : National flood and coastal erosion risk management strategy: England

Amendment 12

Moved by ***Lord Greaves***

12: Clause 7, page 5, line 23, after "are" insert "expected"

Lord Greaves: My Lords, in moving Amendment 12, I shall speak also to Amendments 13 and 24 in the same group. My noble friend Lord Redesdale has a further amendment in this group. There are two small amendments in this group which revolve around the word "expected". They are there to find out whether there is any reason why the national and local strategies differ in this respect. Clause 7(2)(e) states that the national strategy must specify,

"how and when the measures are to be implemented".

The local strategy, under Clause 9(4)(e), must specify,

"how and when the measures are expected to be implemented".

Is there some subtle difference here, or an important difference that I do not understand? The reason for tabling these two amendments is to find out what the difference is, whether it is intentional and, if it is intentional, what it means.

The second amendment is perhaps more substantial. At the moment, Clause 7 states that the national flood and coastal erosion risk management strategy must specify,

"the costs and benefits of those measures, and how they are to be paid for".

[Lord Greaves]

That is obviously extremely important. I want the criteria to include how they are to be assessed and the schemes prioritised. There is considerable concern that the cost-benefit analysis which is used to distinguish between schemes in different areas fails to distinguish between urban and rural areas. This means that in any list of priorities, market towns and villages often struggle to attract adequate protection. The instance that has been cited to me, and which I have investigated, is that of the rather nice market town of Pickering in North Yorkshire, where it is believed that its schemes cannot compete, under the existing cost-benefit system, with schemes in the middle of Leeds, for example. Those inevitably provide a lower cost per head than a rural town which may be very much in need of protection but does not have enough people to come out well—in relation to cost—from the cost-benefit analysis.

It is suggested that what is needed is a separate funding scheme for rural, as opposed to urban, areas. I cannot comment on that but I can comment on my proposal that the national flood strategy that is laid down should set out very clearly the criteria for this, and establish whether there is the same system whereby smaller places have to compete against much bigger places, or whether there can be some variation in this. I will briefly outline the position in Pickering as an example. The town has had four major floods in a decade, the most recent causing damage costing in the order of £6.5 million. It is, in the view of local people, a town left to drown. There have been several close calls in recent months. It is not a question of whether it will flood again but of when and how badly. Schemes have been put forward, particularly for work upstream. That is a sensible way of dealing with the matter, but it is generally believed that if flooding is to be prevented, as opposed to mitigated, it requires a more significant project to protect the 130 homes and businesses against a flood of the level seen in 2007. It is put to me that, for a while, the cost-benefit system was suspended and, as a result, other towns, particularly the group that includes Malton, Norton and Old Malton, which are around eight miles downstream from Pickering, are now protected from similar floods while Pickering remains defenceless.

I do not want to say anything more about Pickering; it is a delightful place and if people have not been there they should go. Apart from anything else, it has a steam railway which is as close to a proper steam railway as you will find in this country. However, I am not talking about the steam railway but about flooding. Pickering is sited where a valley comes down from the moorlands, opens out, debouches on to the Vale of Pickering, which is a huge floodplain—it used to be a lake in fairly recent glacial times—and flooding is a real problem.

The point I am trying to make more generally is that if the Flood and Water Management Bill is to be successful, towns such as this—of which there are many throughout the country—ought not to suffer simply because they are smaller and cannot match the cost benefits of a big city. Cities have tens of thousands, perhaps hundreds of thousands, of people protected compared with a small place which protects fewer people. If the small place is to survive successfully in the future, adequate flood prevention measures, both upstream from the town and within it, have to be taken into account. This should be set out clearly in the national strategy, which is why my amendment should be accepted by the Government. I beg to move.

Lord Redesdale: My Lords, I shall speak to Amendment 58. I declare a couple of interests: I am chairman of the Anaerobic Digestion and Biogas Association and am soon to be a non-executive director of a watertight wares company which deals with flooding. After listening to the noble Lords, Lord Taylor and Lord Dixon-Smith, I should add that I own a mile-and-a-half of a river bank. The River Rede, which in Northumbria means the red river, is so called, we think, because of the iron oxide which goes into it or—the local variation—because it is stained red with the blood of Scotsmen after a massacre in the 16th century, which is the version that I prefer.

The purpose of Amendment 58 is to bring the water regulator, Ofwat, into the remit of the Bill. To me, it is the elephant in the room that has not been discussed because, although the regulator is seen as slightly outside the ambit of the tenor of the Bill, it is responsible for the operations of the water companies. The Bill also deals with sewer flooding and drains flooding from sewers into which the water runs. There is therefore a direct link between the water regulator and provisions within the Bill.

We should not underestimate the problems with flooding. Obviously we have been talking about water and rivers flooding—the first amendment of the noble Lord, Lord Cameron, dealt with the wider area—but 50 per cent of all flooding in houses comes from sewers being flooded by rainwater and then the water going back through the pipes. This was a major problem for the poor people of Carlisle, where much of the flooding came through the sewers. Sewer flooding is far worse because it is contaminated water and gets into the brickwork; you then have to hack all the plaster back to the brickwork to get rid of the smell. That is why flooding in this area takes between three and six months to put right and is far more serious than river flooding.

Another reason for tabling the amendment is that Ofwat regulates the water companies through five-year plans, which in relation to flooding is a short period of time with which to deal with long-scale issues. I do not want to clash with the ASA and its recent pronouncements on the department's adverts on flooding, which say that climate change is an aspect of flooding, but I believe that long-term trends indicate that climate change will bring about far more flooding, although, of course, it is difficult to state that individual floods are caused by climate change.

If that is the case, as part of this Bill I would ask two questions. First, the powers or primary functions of the regulator are currently under review by Defra. In the light of the fact that we are looking very seriously at flood water management, should not the department take into consideration long-term sustainability when looking at this and write it into any review process? I hope that the Government, and any Government of any future colour after the election,

will take this point extremely seriously, because it is a real issue in dealing with these much longer-term problems.

Secondly, should Ofwat in that review be conditioned with the same sustainability criteria given to other regulators? I raise the issue because, in the Energy Act 2008, Ofgem was given a sustainability regulation looking at carbon and the interests of present and future consumers. That is why I added that line into the amendment. In the 2010 Bill, whose Second Reading happens in your Lordships' House next week, there is a provision to indicate that cost should no longer be the primary consideration. This is an important point; it might be seen as an esoteric point about the Short Title of the Bill but I believe that it is much more important than that. As we passed the Climate Change Act 2008, we should start taking into consideration the longer-term issues that all pieces of legislation will feed into. Therefore, I hope that the Minister can confirm that, in the Defra review, Ofwat's primary regulations will be raised far above the regulation about cost and take in the much more important consideration, which this Bill deals with, of the long-term sustainability of managing our water resources.

Earl Cathcart: My Lords, I begin by declaring my interests. I am a farmer and a landowner and I am involved in the property insurance market—all sectors which will be affected by the measures in this Bill. Until recently, I was a local councillor for a number of years in Norfolk. During that time, I had some involvement with our local internal drainage board.

The noble Lord, Lord Greaves, has raised questions about the implementation measures contained in the risk management strategies—

6.03 pm

Sitting suspended for a Division in the House.

6.10 pm

Earl Cathcart: My Lords, the noble Lord, Lord Greaves, has raised questions about the implementation measures in the risk management strategies. His pair of amendments, Amendments 12 and 24, do indeed highlight an unusual discrepancy in the drafting of Clause 7, which is about the national strategy, and Clause 9, which deals with the local strategies. In the former, measures are to be implemented, but in the latter they are not expected to be implemented. Why, I wonder, are expectations lower for local strategies? If a strategy has been developed, should not the measures be implemented?

If the Government are serious that local authorities will have as much of a role to play as the Environment Agency, each in its appropriate sphere of course, then why do we see the difference in the drafting? The noble Lord was sharp-eyed to have spotted that difference, but it is an interesting point which I should like the Minister to address.

The noble Lord's Amendment 13 asks how we will be able to assess the costs and benefits of measures proposed in the national strategy to manage flood and coastal erosion risk. Presumably this will all form part and parcel of the work conducted by the Environment Agency when it is setting up and maintaining the risk-management strategy. Will the agency be required to produce the sort of impact assessments that government departments publish with their legislation, for example; and how, having done so, will the Environment Agency weigh up the pros and cons of the measures it has proposed? What is the process involved? To my mind this is another reason why we are justified in seeking parliamentary oversight of the strategy, so that we can have an impartial adjudication of the costs and benefits.

Amendment 58, tabled by the noble Lord, Lord Redesdale, at first seems a bit of an oddity in this group as it deal with the involvement of Ofwat in the guidance which is to set out the meaning of sustainable development. My noble friend Lord Taylor and I have an amendment tabled to Clause 27, which we will debate later—probably not tonight—which we shall use to explore the meaning of sustainable development in greater detail. However, as it is being debated now, I will make the comment that the obligation to contribute to sustainable development will indeed be another consideration that authorities must take into account when deciding the priority they give to the measures designed to give effect to their risk-management functions. Will the obligation to contribute to sustainable development, a concept as yet undefined, take priority over other measures, or where will it fall in the rankings of all the other obligations which must be undertaken?

The Minister may not at this stage be ready to tell us what he thinks sustainable development is—although I hope that he will be ready by the time we reach Clause 27—but he may feel that he ought to expand on the topic if it allows us to consider whether that obligation will interfere with, complement or otherwise relate to the measures which must be set out as a result of Clause 7.

6.15 pm

Lord Davies of Oldham: I am grateful to all noble Lords who have spoken—although I must say that I take a little umbrage at that last remark. After all, I listened to the noble Lord, Lord Redesdale, on the Climate Change Bill—endless hour after endless hour on sustainability—so I am able to help in that respect. However, the noble Lord will forgive me, as I am not going to go into enormous detail on this amendment. As the noble Earl, Lord Cathcart, correctly identified, we will have plenty of time to discuss those issues.

Lord Greaves: Just to be accurate, I think that the noble Lord was referring to the Planning Bill and the Marine and Coastal Access Bill.

Lord Davies of Oldham: I have been with the noble Lord, Lord Redesdale, on several Bills, but the noble Lord, Lord Greaves, is right to remind me that he and I have disputed these points on yet another Bill. I am grateful for the memory of that happy experience, which of course is being replicated as we deal with this Bill.

A noble Lord: It's the same speech.

Lord Davies of Oldham: It's the same speech in every Bill, as my noble friend has indicated. I assure the noble Lord, Lord Greaves, and the noble Earl, Lord Cathcart, that the apparent omission of "expected" from the national strategy, to which Amendment 12 is addressed, is deliberate. It reflects the fact that this operates at a higher level so that the implementation of measures or approaches, such as flood warnings or works programmes, can be managed to ensure that they are implemented to time and to budget.

The local strategies, however, may contain physical or other works in particular locations. The Bill therefore reflects the fact that these might be delayed, for example, due to requirements for planning permission or the availability of specialist plants or materials. So we do need an element of flexibility—an elasticity—in relation to the local position whereas with the national position we can determine broad strategy and be definitive. Hence the reason for the Bill as drafted. As the noble Lord, Lord Greaves, knows only too well, nothing that the Government ever draft in a Bill is inadvertent; it is always deliberately thought through and carefully considered before being presented to Parliament.

Amendment 13 would require the national strategy to include information on how measures are to be assessed and the schemes prioritised. The national strategy will work at a high level, setting out broad approaches and principles applicable to the management of all sources of flood and coastal erosion. It is likely that the principles for assessment and prioritisation of government expenditure will be set out in the strategy, but the methodology adopted will be set out in guidance so that an appropriate level of detail can be provided. I know that the noble Lord, Lord Greaves, would not let me get away without this assurance: the appropriate level of detail can be provided and updated to reflect changing circumstances.

Perhaps I can indicate to the noble Lord another word of constructive comfort. He included in his illustration of local issues the town of Pickering, a town for which I have the greatest affection. As he said, it is a most attractive town. As I recall, it also makes for a well-deserved holiday. After you have spent six weeks lecturing at the University of Boston during the year in which they were celebrating the bicentenary of the American Revolution, you need a holiday when you get back. I took one in Pickering and greatly enjoyed it. I therefore have the town's interests greatly at heart and am delighted to assure the noble Lord that Defra of course recognises the difficulties he has identified with regard to Pickering and the threats to it. That is why we are funding a landscape scale trial to see whether tree-planting and water storage can reduce the risk. This is an Environment Agency, Forestry Commission and National Parks project—all those organisations are involved—which is being funded by Defra. This falls outside the main capital programme, so the noble Lord will at least give the department credit for having anticipated that he might contribute to this debate and mention Pickering.

I assure him that we do not discriminate between urban and rural. The appraisal system discriminates and that is why funding is targeted first at where the benefits are greatest and the potential damage is very serious. We do not distinguish between urban and rural; the question is where the threat is and where the issue needs to be addressed.

On Amendment 58, tabled by the noble Lord, Lord Redesdale, which presages considerable debate later on, I emphasise that the Government are considering the scope of the review of Ofwat. It will take into account our deliberations on these issues today and those that I hope we will have next week as we discuss the Bill. However, Ofwat already has a duty under Section 2 of the Water Industry Act to contribute to the achievement of sustainable development, so it has an obligation. We have no doubt that the Bill will throw up some interesting insights into the necessity for effective action, and we will ensure that this is translated into the Ofwat review.

Lord Redesdale: I thank the Minister for that. In Ofwat's primary directives when it was set up—I have looked through the water Act—cost is the primary consideration. However, I want to put on the record—I hope that the Minister can confirm this—that in the Energy Act 2010 cost is no longer seen as the primary consideration for Ofgem. So if the primary consideration for Ofgem is now to be sustainability above cost—although cost is obviously an important consideration—should not Ofwat's emphasis also be on sustainability above cost? Will there need to be a change in primary legislation?

Lord Davies of Oldham: My Lords, my honourable friend in the other place expressed a desire to consult on the guidance. Under the code of practice on consultation, the Government will consult on the guidance as a matter of course, and that will include Ofwat. So Ofwat and other interested stakeholders can all participate in that necessary consultation. We do not need to specify that Ofwat is consulted because such a consultation would expect all significant parties to play their part. I hope he will withdraw Amendment 58 because we take on board his point about Ofwat's responsibilities.

I will look at the question of primary legislation but, as I have said, the powers already exist. We do not think it is about primary legislation; rather, it is about conditioning Ofwat's perspective from the public debate of priorities, which is what its concentration is designed to identify.

Baroness Byford: The Minister mentioned the land scale trials that are taking place. What area is covered? Is it one area or several different areas within the UK? What sort of timescale does he have? Will there be a review at the end of it? What is the programme cycle?

Lord Davies of Oldham: The trial will cover several areas. I cannot go any further into that because I do not have the identification of the localities immediately to hand. The trial will be evaluated in due course.

Lord Greaves: My Lords, I am grateful for the Minister's reply. I shall of course withdraw the amendment. I was intrigued, however, by his explanation as to why the national strategy will "happen" and the local strategies will be "expected". He said that it was all a matter of getting planning permission, possible difficulties of

funding and so on. Will he confirm that the national strategy will cover all main rivers? It is quite clear that local rivers are covered by the local strategy. Clause 9 refers to "ordinary watercourses" as opposed to main watercourses. However, main rivers and watercourses go down to quite small streams in many areas. There is a main watercourse in the ward that I represent on Pendle council which rarely has any water in it. It is a little beck and there is water in it only if it rains heavily, yet it is a main river. As part of a housing development, the Environment Agency insisted that there should be a scheme for a little weir and a pond. It has caused huge problems with planning and getting people to do it, because nobody knows who owns the land—it is a nightmare. However, this is a very small, local matter. Will the Minister confirm that the national strategy will cover all main rivers? In the case of the river that I am talking about, "expected" is certainly the case. If it does not cover all main rivers, where do they appear in the strategies? The list set out in the clause on local strategies does not include main watercourses.

The planting and management scheme upstream of Pickering is extremely welcome. It is exactly the kind of issue that arises in catchment area management, which comes up in the next group of amendments. My information is that for a 2007-level flood in Pickering, the new measures are expected to reduce the water levels and flooding by no more than around 10 per cent. It is far from the whole picture, although it is very welcome. On that basis, I beg leave to withdraw the amendment.

Amendment 12 withdrawn.

Amendment 13 not moved.

Amendment 14

Moved by ***Lord Greaves***

14: Clause 7, page 5, line 27, at end insert—

"( ) the means by which the strategy will ensure that flood risk management within catchment areas takes place on a co-ordinated basis,"

Lord Greaves: My Lords, this amendment raises the important matter of catchment area management. I shall speak also to Amendment 25 in the same group. There are also two amendments tabled by the noble Lord, Lord Cameron of Dillington.

We talked about catchment area management at Second Reading. The noble Lord, Lord Cameron, was particularly eloquent about it, and I look forward to hearing what he has to say today. We said then that the principle of catchment area management is not clearly set out in the Bill and that some of the administrative arrangements being proposed may get in the way of proper catchment area management unless it is set out as a clear duty.

The amendment would add to the things that the national strategy must specify,

"the means by which the strategy will ensure that flood risk management within catchment areas takes place on a co-ordinated basis".

My second amendment would add the same wording to the local strategies.

I shall not speak at great length because the position is very clear.

The Deputy Chairman of Committees (Baroness Gibson of Market Rasen): There is yet another Division in the Chamber. Therefore, the Committee stands adjourned for 10 minutes until 6.38 pm.

6. 28 pm

Sitting suspended for a Division in the House.

6.38 pm

Lord Greaves: My Lords, in moving Amendment 14, I will not talk at any length about the need for integrated catchment area management as part of the flood risk strategies because it is self-evident that it is an important component. When we were interrupted by the Division, I was saying that catchment areas very often do not coincide with administrative boundaries, which is true at the local level and the regional level, and between England and Wales.

At a local level, it is very important that there is sufficient co-operation and co-ordination within catchment areas so that what is done upstream, in the middle of the river and downstream is co-ordinated in a way which helps to manage flood risk. At national level, the strategy must set out how this is to be achieved, and that is my reason for moving the amendment.

I should add—and this gives the Minister the chance to answer the question that I asked last time—that if the national level strategy includes all the main rivers, there clearly has to be catchment area integration between the responsibilities of the Environment Agency in dealing with rivers and the responsibilities of the local flood risk management authorities.

The noble Lord, Lord Cameron, said earlier that engineers will often find a solution that they understand. It might be an engineering solution involving concrete because that is what they understand and is how they work. That might be the right answer or it might be the wrong answer but, unless the proposal is looked at within the context of a catchment area, it could be a disastrous answer.

With regard to the use of farmland, there has to be integration with farming strategies, with single farm payment strategies and with environmental enhancement schemes on farms and the like. Unless CAP measures can be integrated into the whole strategy within a catchment basin, then it will not work. The Minister referred to planting trees and the involvement of the Forestry Commission. All these things are necessary, which is why the strategy should clearly require this kind of approach. At regional level, regional strategies—formerly regional spatial strategies—need to take account of catchment area planning and, at local level, the local development framework, which is the replacement for local plans, needs to take account of catchment area planning with regard to water and flood management. Particularly at district council level, where there are quite small district councils, a catchment area might have a lot of different local planning authorities. Unless

[Lord Greaves]
they are integrated and have to take part, partly in their role as flood management authorities but also as local planning authorities, it will become impossible to have proper catchment area planning of the kind that is needed. Therefore, our view is that it should be clearly stated in the Bill that this is a requirement, and we ask the Government to take this matter very seriously. I beg to move.

Lord Cameron of Dillington: My Lords, I shall speak to my two amendments in this grouping. The noble Lord, Lord Greaves, seemed to indicate that he was looking for eloquence and depth in my remarks but I fear that he will be disappointed. All my interventions on the first half of the Bill are about catchment co-ordination, so I shall be dropping in my pearls sparingly, one by one.

The noble Lord is right that at Second Reading I said that I believed it was vital that we retain the management of our water on the basis of the whole catchment. The alternative, whereby every individual section of a river is managed differently with no thought for those downstream, is, to my way of thinking, a recipe for chaos, greater overall expense and greater insecurity. As I also said at Second Reading, I nevertheless sympathise with the desire to ensure that there is democratic responsibility for flood defences on a local basis. I fully acknowledge that having local flood risk-management strategies devised by the lead local flood authority is a good idea.

6.45 pm

I recognise that Clause 9(5) and Clause 10(5) currently require the local strategy to be consistent with the national strategy, and that it is possible that the national strategy could, among other things, spell out what I am seeking to achieve in my amendments in this group. However, if Clause 9(4) and Clause 10(4) are trying to put the essential points of a local strategy into the Bill—that is, what it must specify—then for goodness' sake let us ensure that we spell out the most important consideration: proper, co-ordinated catchment management. This means that we will ensure that we have the least overall cost and, at the same time, the maximum effective security against flooding for all in the catchment.

I have to admit that Amendment 25, tabled by the noble Lord, Lord Greaves, which I had not seen until late last night, probably covers my point rather more comprehensively than my wording. I always say what I want, but I am never very good at getting the right mechanisms for achieving it. I would be very happy to support their amendments in lieu of mine, if the Minister thinks it is a better way forward.

Earl Cathcart: My Lords, the noble Lords' amendments are useful in allowing us to consider catchment areas. I understand that this country, as far as water management goes, is widely admired for its organisation by catchment area rather than by political boundaries. To my mind, that is entirely correct, as water plainly does not know whether it is in one district council area or another. As far as I can see, the Bill is structured in a way that allows co-ordination between authorities which will be affected by each other's decisions. The noble Lord, Lord Greaves, raised an interesting question about how differences will be resolved should two areas find themselves with incompatible approaches. What means will be used to resolve the differences? Will the Environment Agency have a role to play? I will be interested to hear the Minister's comments.

I also have some questions about downstream authorities. I can see an analogy between a flood and a car crash involving several cars. Who bears responsibility? Is it the last car in the line or the one immediately behind you? Likewise, if flooding affects a downstream area, where does the responsibility lie? Is it with each authority lying further upstream or with the one receiving the water? Or, is there a different level of responsibility depending on what actions each authority took or failed to take? If my land at the bottom of the valley suffers flooding damage due to decisions or mistakes elsewhere, what avenue of redress can I pursue?

I fully expect that the Minister will be able to provide reassurance on this point, perhaps explaining the co-ordinating role played by the Environment Agency, with its national strategy, and the responsibilities of the lead local authorities to co-operate with each other. However, it would be very useful to have on the record a clear step-by-step guide to how the schemes will be managed. Will the department be producing guidance and, if so, when might we expect to see it?

Baroness Young of Old Scone: My Lords, I declare an interest for this part of the Bill as a former chief executive of the Environment Agency. I am delighted to see the Bill here now. If we ever get a chance to stop voting, it might actually progress. I am also president of a local wildlife trust and a member of the climate change adaptation committee.

I support the principle of these amendments. They are probably legislatively unnecessary, since this sort of co-ordination is increasingly already happening, but I welcome what has just been said about the importance of co-ordination. I hope that noble Lords will bear that in mind when we come to debate Amendments 27, 33, 38 and 39, which seem to weaken co-ordination. I simply place a marker that the statements we have just heard about co-ordination are extremely important.

Lord Davies of Oldham: My Lords, what a pleasure it is when a contribution from a noble Lord sends a chill wind towards speakers in the debate other than the Minister. I am grateful to the noble Baroness for indicating that she has some anxieties about amendments that we will come to later. As noble Lords will appreciate, I have perpetual anxieties about all amendments apart from government ones.

I will begin this part of the debate by addressing the issue of how the national and local strategies should operate. We touched on this earlier in our discussions. There will be a number of occasions as we debate the Bill when these issues can be raised, but this is perhaps an appropriate one on which to clear up some of them and reach a broad understanding of the principles behind the Bill and of the way in which things are meant to work.

The national strategy will underpin effective management of flood and coastal erosion risk. Given the importance of this, the Environment Agency must consult other risk authorities, the public, and, where appropriate, Welsh and Scottish Ministers on the content of the strategy. The noble Lord, Lord Greaves, raised a specific question about this when we discussed the previous group of amendments. I emphasise that the national strategy perforce will be general. It will not put forward specific options for specific locations. The Environment Agency will certainly be expected to continue with catchment flood management: that is the concern of the amendments of the noble Lord, Lord Cameron, and which he emphasised so emphatically at Second Reading. He has been supported today both by the noble Lord, Lord Greaves, and the noble Earl, Lord Cathcart.

The national strategy is bound to have broad objectives, which will include catchment areas. Therefore, it is bound to be involved in issues of risk assessment, including those aspects of climate change that we touched on earlier this afternoon. As noble Lords would be quick to point out if I did not, the issues of the costs and benefits of the measures proposed, and of the contribution to wider environmental objectives, will be the responsibility of the Environment Agency; and that will be the basis of the national strategy.

What the national strategy will not do is to prescribe particular local flood or coastal risk management decisions. That will be appropriately and properly the responsibility of the risk management authorities, whose operations we define in the Bill, but it will provide a framework within which these decisions can be made consistently. The point made by the noble Lord, Lord Cameron, is right: the concept of a catchment area is of very great importance with regard to risk management, and of course the catchment area does not automatically coincide with local authority areas—that is not how water distribution works. The Environment Agency will have overall responsibility, but it will not be prescriptive as regards decisions taken at local level.

Investment of public funds in flood and coastal erosion risk management must be carried out equitably to achieve maximum benefit. The national strategy will help to ensure that resources go where the greatest priorities are identified. What local strategies need to do is to reflect that element of national strategy. In addition, decisions need to be made in the context of wider risks to ensure that decisions made in one area do not impact negatively on another. That was the whole point that the noble Earl was making a moment ago. Why should those downstream bear the costs of those decisions taken injudiciously upstream? The point there is that the local risk management authority will seek to meet local needs, but will do it within the framework of the national strategy, particularly reflecting catchment areas.

The responsibility therefore remains with the Environment Agency to manage those risks that typically occur on a larger scale, such as flooding from the main rivers and the sea. We fully expect that it will continue to undertake its planning at a catchment scale, as it currently does, through catchment flood management plans. That is the EA's responsibility. Local authorities will be responsible for those risks that can be more appropriately managed at a local scale, including surface water and ordinary water courses—although, as the noble Lord, Lord Greaves, is apt to point out, ordinary water courses have extraordinary features at times. I accept that point entirely. We all know that we are dealing with a difficult area. That is why this Bill is so important. We all recognise the great difficulties of water management.

These responsibilities are underlain by a duty for all risk management authorities to co-operate, as specified in Clause 13(1), and to share information, as specified in Clause 14. These, together with the guidance, alongside the national strategy and the ability for the authorities to enter into arrangements in Clause 13(4) provide the assurance that authorities will work together on a catchment basis, when that is needed. As will be seen from the broad description that I have given of how the national and local strategies are meant to interact, we conceive of the four amendments as being of broadly similar intent, making reference to the need for strategies to take account of catchment scale linkages and processes. Of course, we accept that argument entirely.

It is important to ensure that water movements across local authority boundaries are dealt with effectively; I hope that noble Lords will accept from the amendments that the Bill is structured to take full account of this most important concept. The guidance accompanying the national strategy will address these concerns and seek to ensure that one authority does not simply act in a way that passes the problem on to another. Local authorities will be bound by the duty to co-operate, and local strategies will need to be consistent with the national strategy and guidance. Similarly, in exercising flood risk functions, local authorities will also need to co-operate and act consistently with the national strategy and guidance. Against this clear perspective that the Bill identifies, I ask noble Lords that the amendments should not be pressed.

Amendments 26 and 32 would require local authorities to specify the strategy impacts outside their area. However, although they could specify, they would not have the power to do anything about them. Determining the impacts may not be practical, since it would require understanding of how risk is to be managed in adjacent areas for which they are not directly responsible. The Bill already makes sure that the people responsible, in the adjoining authority—or authorities, if more than one—should co-operate and share information. Those duties, together with the ability to enter new agreements, buttressed by the national strategy and guidance, provide a more pragmatic approach to ensuring that the arrangements work at the catchment as well as the local and national scales. I am, however, grateful to noble Lords who tabled these amendments, because they raised the issue of the catchment area. It is important to recognise that the Bill successfully and properly addresses that most important concept. I hope that noble Lords will feel able to withdraw their amendments.

7 pm

Lord Greaves: My Lords, I am grateful for the contributions to this debate. The noble Lord, Lord Cameron of Dillington, is altogether too modest. He is

[Lord Greaves]
far more of an expert on these matters than I am. I was grateful for his support and for the contribution of the noble Earl, Lord Cathcart.

I think we have got all that we could expect out of the Minister today—a clear statement, on the record, that the Bill will substantially be based on catchment area management. I do not think we will get more than that today, but it is very welcome and I thank the Minister for it. He said that the national risk management strategy will not be based on specific options or locations. However, the local strategies appear to be based much more on specific options and locations. Because they cover much smaller areas, even in large counties such as Lancashire and North Yorkshire, they will inevitably look at problems in somewhere such as Pickering or parts of Lancashire that are liable to flood, even up in the Pennines. I do not think they would work if they did not do that.

My point is that if the local strategies are going to deal, as the Bill says, with surface runoff, groundwater and ordinary watercourses, how do the main rivers fit into this strategy? How will it work in practice? This is what I was trying to get my mind around in the question of main rivers. Main rivers may be what we call "proper big rivers", such as the Ouse and the Ribble, but they also include many quite small streams, some of which, in our part of the world, would just be called bits of becks. Clearly, they are the responsibility of the Environment Agency, but they have to be integrated into any kind of local flood risk management strategy that is going to make sense. You cannot say that a particular stream, which happens to be part of a main river, is to be treated differently from a stream that is treated as an ordinary watercourse. That is what the position is on the ground in many places. What is the responsibility of the two different risk management authorities that will be responsible for these in coming together for the local strategy?

I am sure the Minister will tell me that everyone will work together in a sensible and co-operative way and that it will all work in practice. However, it is not clear from what is written in the Bill that that is the case.

Lord Davies of Oldham: Guidance will have to be issued on how this co-operation is to take place. We expect the consultation on that to begin later this year and guidance will be provided. The noble Lord is absolutely right. The national strategy will have to be interpreted accurately and effectively by local decision-makers. We are protecting the proper rights of the local risk management authorities to take decisions. As the noble Lord, Lord Greaves, is emphasising, it would be absurd if they took decisions about water management which ran contrary to good sense. The guidance will indicate how they reconcile their position with that of the authority next door, or even more than one authority. I accept entirely his point that it will be necessary to identify how difficulties are overcome. However, that element of detail is a function of guidance, whereas the structure of national strategy and risk management authorities are properly primary legislative issues. That is why they are defined as they are in the Bill.

Lord Greaves: We will not get any further with this today. My problem is that, much as I am a real supporter of public authorities, particularly democratically elected public authorities, they do not always behave in a sensible and co-operative manner, so I like to see things written down. On that basis, I beg leave to withdraw Amendment 14.

Amendment 14 withdrawn.

Amendment 15 not moved.

Amendment 16

Moved by ***Lord Taylor of Holbeach***

16: Clause 7, page 5, line 36, at end insert—

"( ) bodies representing the owners and occupiers of land likely, in the opinion of the Agency, to be directly affected by flood and coastal erosion,"

Lord Taylor of Holbeach: My Lords, in moving Amendment 16 I shall speak also to the others in this sweeping group of amendments which, in some ways, gets to the heart of the structure of the Bill.

This is an important subject area and deals with the drawing up of the national and local strategies for managing flood and coastal erosion risks. We will deal later with the relationship between local and national strategies but, for the purpose of this debate, we are broadly content with the twin-track approach. I suspect the noble Baroness, Lady Young of Old Scone, is somewhat amused by that. I find it pleasing that the Bill has been constructed in the way that it has, reflecting the reciprocity of national and local obligations.

Clause 7 deals with the national strategy for England and Clause 8 with the national strategy for Wales, with the Environment Agency tasked with the former job and Welsh Ministers with the latter. Clause 9 deals with local strategies for England and Clause 10 with local strategies for Wales. It is a good principle to develop this twin-track approach within the symmetry of the structure so that we can exploit the benefits of expertise and local knowledge.

It would be perhaps as well if I mention at this point the role of the IDBs. I do not think internal drainage boards will feature much in the debates of the Committee because the major section on internal drainage boards was removed from the draft Bill. However, they are a key delivery agency of any proper management of floods and water and I hope their role will be sustained by this new legislation and encouraged by the Government. If any body is designed to manage water on a catchments area basis, it is indeed the IDBs. I hope they will be encouraged to maintain a leading role in this respect.

The clauses require that the strategies be subject to consultation. We would not consider anything otherwise to be appropriate. The amendments, however, probe who must be consulted. Each of the four groups which draw up the strategies must consult with each other, with the relevant management authorities and, where necessary, with the Scottish Ministers. Anyone else, however, is simply described as "the public". That is plainly a very wide category and, while it is right and

proper that the public should be consulted, details seem rather vague. Would that obligation be met simply by posting a notice in local or national newspapers; would that be sufficient? What form would or should public consultation take?

I have suggested in my amendments bodies which would seem prime candidates to be consulted—the water companies, sewerage undertakers and bodies representing landowners likely to be directly affected by flooding and coastal erosion. All of these have a direct interest in any strategy that emerges, locally or nationally. Landowners and managers are instrumental in protecting other land from flooding because it is in their own interests. They will have not only opinions but experience and expertise which should provide an invaluable resource. It therefore seems entirely sensible that the agency or the responsible authorities should consult landowners and managers about the national flood and coastal erosion risk management strategy.

It is perhaps less cumbersome to have bodies representing owners and managers rather than the owners and managers themselves. Such parties will play a large role in achieving the objectives that we have set out in the section about consultation. The requirement to consult only "the public" seems too woolly. Surely it would be better to have a full engagement with those bodies and groups which have the most at stake.

The same is true of the water companies and sewerage undertakers. When discussing an earlier set of amendments, the noble Lord, Lord Redesdale, who is not in his place, gave graphic illustrations of the unpleasantness of sewage flooding. The water companies and sewerage undertakers will be directly involved if there is flooding. I cannot imagine that anyone would think that they should not be consulted. Their relevance is so fundamental that I can see justification for mentioning them in the Bill. The Minister may not be minded to do so. I imagine he might suggest that to include some would implicitly include others. That is the old list argument again, but a number of lists are included in the Bill. However, I hope that he will be able to indicate the guidelines the department will doubtless draw up to advise on strategies. I suspect that this will be key.

It seems to me that there is almost no chance that the bodies I have mentioned would not feature highly in any consultation, but I wonder whether there will be a requirement to give extra weight to the views of such organisations. I would appreciate hearing more details from the Minister about the way that strategies will be drawn up. I press him to provide draft guidelines at the earliest opportunity. It makes the scrutiny of legislation very much easier, and better, when Parliament is kept up to date with what exactly the Government are asking us to legislate on.

I think at this stage I am likely to get assurances from the Minister rather than anything else, but even assurances would be useful to have on the record as regards who will play what role in the national and local strategies. I beg to move.

Baroness Knight of Collingtree: My Lords, I have great pleasure in giving the warmest possible support to every word that has been said by my noble friend Lord Taylor. However, I must speak on this amendment because there is one small word in it that worries me very much—namely, "and". Earlier, I mentioned my concern that in many clauses throughout the Bill the lesson comes across that the people who are looking at flood risk and trying to set out what the dangers are and making suggestions for combating them are also looking at coastal erosion. I think I am right in saying that that is mentioned nine times in this one clause alone. I do not understand why we cannot say "flood or". I spent 10 years of my life as a local councillor and I am well aware of the frequency and joy with which local councils waste time. I can think of no better way of wasting time than to say that every council, whether or not it had any coastal problems, would have to consider them. That is the message that I get and it is repeated in the amendment. The Minister well understood this and kindly commented that somewhere such as Birmingham or Northampton—where my home is—should not have to waste time considering coastal erosion. Why can we not ensure that consideration is limited to the dangers which might occur in any one area?

This may seem a small point but, given the present passion for sending out forms containing boxes to be ticked, I can well imagine boxes coming out by the thousand on forms sent to all these councils asking them to consider what they are going to do about coastal erosion in Birmingham. It may surprise noble Lords, but I can tell them that councils could waste a good deal of time trying to figure out what those coastal erosion problems might be. Is it not possible to make it plain that there is no duty on any area which has no likelihood of suffering coastal erosion to have to consider that point? At the moment there is no certainty in that regard. In fact, as I read the Bill, it seems that they will have to waste time considering that. May I have an assurance on that? Otherwise, I support this amendment and so much of what my noble friend said about the need for consultation. There is a great interest now in flooding, because a great many people have had close personal experience of its dangers and of the agonies of families who have had it happen to them. We should most certainly consult, but recognise that wasting time on consultations that are not needed is not very sensible.

7.15 pm

Lord Cameron of Dillington: I support the amendments in this grouping, particularly those which try to ensure that local landowners and farmers are consulted in devising these strategies. The Committee would probably expect me to support them, and I reiterate my interests as a farmer and landowner. It is perhaps not quite so important in connection with the national flood and coastal erosion risk management strategy, although anyone drawing up such a plan without consulting the experts at the CLA and the NFU would be very remiss. As an ex-chairman of the CLA water committee, I was always amazed at the sheer weight of watery knowledge, including on coastal erosion, which was available from the members of that committee.

However, where consultation with the farmers and landowners is vital is at the local level. What happens to the rain after it lands on the soil, how the land is

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best drained and how floods are best avoided in each and every area—those require a lifetime of experience and often, indeed, more than a lifetime of experience. While I was writing these remarks, they reminded me of Arthur, who was an old boy in our village. I suspect that every farm and village has one who has inherited the knowledge of previous generations. Whenever a drain or a piped stream went wrong, and water was bubbling up everywhere, the cry went out: "Where's Arthur? He's the one who will know how this thing works and how we can solve the problem". Sure enough, Arthur was sent for; sure enough, he knew exactly how it all worked. It also occurred to me that Arthur is, as they say in Somerset, now long gone. I am afraid that I have a deep suspicion that the "old boy" that they now call on is probably me, which is not an accolade I would necessarily wish to take on. Getting back to my point, any local flood risk strategy that ignores the knowledge and experiences of local farmers and landowners, or that fails to acknowledge their interest as food producers, would be seriously lacking, so I strongly support these amendments.

Baroness Byford: My Lords, I support my noble friend's amendments, particularly the one that reminds noble Lords regarding the members of CLA and the NFU. One bit that the noble Lord, Lord Cameron, has just mentioned is the question of the long-term provision of food. Some of these flood areas are key grade 1 land. The Bill does not recognise or address that. One could argue that there is no need for it so to do, but the changes in climate cycles that we are experiencing—even if one does not believe in climate change as such—with the weather being too hot, or too much rain coming in great depth, will reflect on food production. Clearly, there are particular areas in England; if we take the grade 1 agricultural land that lies below the five-metre contour, approximately 40 per cent of vegetables produced in England and Wales come from low-lying fen areas.

Perhaps I might raise two other issues. The first is in connection with consultation. As I am sure that the noble Lord is aware, at the moment the area of the land around Morecambe Bay is out to consultation. I think that the consultation process has actually finished but, before a decision is taken, even having consultation on it actually puts a blight on the land value of that area. I do not think that that has been taken into consideration at all, or whether compensation will be paid. At the moment, it is in some places and is not in others. However, whether it be on the west side of the country or in Norfolk, where my noble friend Lord Cathcart lives and where the Government have clearly decided that they are not going to continue to struggle against the sea, which will be allowed to come in, the whole question of coastal erosion has huge implications, not just for the food producers there but also for the value of the houses and the farming land around it.

I should be grateful for greater clarification from the Minister on two points: first, that low-lying land may well be removed from consideration of flood prevention schemes and, secondly, about the effect that consultation is having on the farms concerned. I have looked at the area being considered at Morecambe Bay. I know that some 20 farms and farmland areas there are very much under threat, and that is of great concern locally.

Returning to my noble friend's comment, I suggest to the Minister that it is not adequate that the Bill does not specifically include landowners—I would call them land managers, but it does not matter what they are called—among those required to be consulted under Clause 7(3). Only "the public" is mentioned, but how do the Government weigh the evidence that is given by the public in response to a consultation? Is it the case that the greater the number of people who respond, the greater the weight they carry, compared with those who manage or work the land?

This may be the appropriate time to raise the whole issue of assessment. I am extremely grateful to my noble friend for having raised this matter and I hope that I am right, at this stage of the Bill, to stress the importance of the role that assessment can play not only in relation to flood protection but also in relation to areas of good-quality land, which are very much the bread-baskets of our country but which may be at risk.

Baroness Young of Old Scone: My Lords, I am sure that, when he responds to the amendment, the Minister will give his usual speech about lists. I share his worry about lists here because, if the various interested groups included in these amendments were added to the Bill, we would have to add a number of other groups that have a legitimate interest. We could therefore end up with a very long list. I shall give two examples. As well as having a big impact on landowners, water companies and sewerage undertakers, the strategies will also have a big impact on nature conservation. Therefore, both Natural England and the Countryside Council for Wales should be on the lists due to their having a very central interest. I am sure that the Minister will tell us that he is not going to have a list and that there will be guidance instead.

Lord Davies of Oldham: My Lords, I am always grateful for all contributions to the Committee but I am particularly grateful for the helpful one that has taken a good chunk out of my speech. The noble Baroness, Lady Young, is right to say that I am against lists. The difficulty lies in how exhaustive one can make lists—they are always there to be added to. Therefore, I am going to argue against these amendments, although I very much appreciate the opportunity that they have provided for an extensive debate about the various interests involved.

The one contribution to which I am afraid I have no response is that of the noble Baroness, Lady Byford. I do not know what to do about consultation blight, which is what I think she identified. In fact, areas that are subject to potential consultation about risk suffer from the fact that they have been identified as being at risk. I do not think that there is any way round that difficulty. It is obvious that it is the job of the authorities which manage risk to identify potential risk, and I am enjoined on all sides of the Committee to say that appropriate consultation should take place. I am not going to dissent from that at all. I am totally in favour of consultation. I shall merely indicate that the Bill

makes provision for that. I take up the point that the noble Baroness Lady Young just identified: we cannot do this properly through lists.

The process is bound to carry difficulties and I sympathise entirely with the noble Baroness's point, but I am not sure that there is much that we can do about risk management and coping with water and its problems without taking actions that, as she has indicated, might cause concern in an area. The only safeguard for that is that the risk has to be accurately defined. We must avoid areas being blighted by consultation about a risk that is non-existent and people therefore suffering in a totally unsatisfactory way that is unjustified. Every other noble Lord who has spoken in this debate has indicated the value of consultation. We are being rather more specific about it.

I want to clear up one other point. I hear what the noble Baroness, Lady Knight, identifies. I am aware that neither Northampton nor Birmingham, nor indeed many other places, have any concern about coastal erosion, but we have to put coastal erosion in alongside flood management because some local authorities have both. Take a place like Haisborough on the Norfolk coast, for instance; if we put it down just for risk management with regard to water but did not identify just what threat was represented by coastal erosion, we would be enormously neglectful of our duties. Noble Lords opposite—the noble Lord, Lord Taylor, the noble Earl, Lord Cathcart, and others—will testify to this aspect with regard to parts of eastern England. We have no option but to include this. I hear what she also says, that there is a danger that people can go off the point in local authority meetings. People can go off the point in almost all meetings, but I cannot imagine that the city of Birmingham is going to spend too much of its time worrying about coastal erosion, even if it considers the issues of water management, which it may well have to do in the framework of the Bill.

Baroness Knight of Collingtree: I am certainly not seeking to stop people who need to study coastal erosion having that done for them. I am simply anxious that there should be clear guidance to those who have these jobs given to them that they do not have to concern themselves with that particular area. Everywhere that has such a need, though, should be required to do so. I am sorry if I misunderstood.

Lord Davies of Oldham: I am merely indicating why both concepts have to be obligatory upon risk management authorities. The only word of comfort I have for the noble Baroness, Lady Byford, is that, as she knows, we are concerned with our strategy for food security and production in the country. She has identified that there might be difficulties for food producers because of the way the Bill will operate, and that is an important consideration. We have had to include the availability of certain kinds of marginal land in the issues that we have concerned ourselves with in relation to the security of food strategy, and erosion therefore raises its ugly head for obvious reasons. We do not think that we ought to be enormously distressed at national level about the relationship between protection, as far as the Bill is concerned, water problems, the national food strategy and food production. I hear what the noble Baroness says about a particular area, though, and that is to be borne in mind.

7.30 pm

I cannot do anything about consultation blight, but I can emphasise that the Bill is about effective consultation, as noble Lords have enjoined us. I am against the necessity for specification as the amendments require. The Environment Agency is used to consulting relevant representative organisations and other persons and to using its judgment as to which bodies need to be approached individually, and it will carry out this function in relation to this Bill in the same way. The Environment Agency is under a duty to secure the involvement of representatives of interested persons where it considers that appropriate. Under the Local Democracy, Economic Development and Construction Act 2009, it must exercise this judgment in a reasonable way. If it did not consult, it would not be acting reasonably, and that is a safeguard for the national body.

In addition, the Secretary of State has the power to issue guidance to all lead local flood authorities in England to which they must have regard. The process of consultation will be identified in the guidance we are to produce, but that is different from saying that it should be in primary legislation.

As for Amendments 28, 29, 34 and 35, which add water companies and relevant sewerage undertakers to the list of bodies, the lists in Clauses 9 and 10 include risk management authorities that may be affected by the strategy, and water companies and sewerage undertakers are defined in them, so they are already included within the definition of risk management authorities in Clause 6(13). The relevant water companies and sewerage companies have got to be consulted, and we are quite clear about that. I am grateful to noble Lords for emphasising that fact. The Government would be very remiss if it was not in the Bill, but the Committee can rest assured that the necessity for consultation with those authorities is already enshrined.

Lord Taylor of Holbeach: My Lords, I was taught when I first came here to be fairly brief in response to the Minister's comments, and I shall try to stick to that. I asked for assurances that the Environment Agency and local authorities would not be doing their jobs in drawing up these strategies unless they properly consulted, and we have had such assurances. It is important to have that made clear and on the record.

Lord Davies of Oldham: There is one point I have omitted to refer to. I am grateful to the noble Lord for his contribution. He emphasised the continuing importance of the internal drainage boards, and I can assure him that we share that priority and that commitment. They will not be affected adversely by anything in this legislation; in fact, they have an important role to play.

Lord Taylor of Holbeach: I am grateful for that further assurance. In listening to the debate it occurred to me that, quite rightly, we have been focusing on the

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contribution of rural England. After all, river systems and, indeed, rain frequently are rural matters. I am aware that many of us are influenced by the fact that we have rural experience and knowledge, but we have to remember that the system is designed also to deal with flooding in urban areas. That is an important element, and I hope the structure will allow a balance to be struck. However, that does not reduce the importance of the strategy recognising the needs of food production in the UK, the needs of nature conservation and the role that those who manage water on their lands can play in flood management.

I am grateful to the Minister for reassuring the Grand Committee in the way that he has, and I beg leave to withdraw the amendment.

Amendment 16 withdrawn.

Amendment 17

Moved by ***Lord Greaves***

17: Clause 7, page 5, line 36, at end insert—
"( ) Parliament,"

Lord Greaves: My Lords, I shall speak also to Amendments 19 and 50. I apologise to the Committee because I will have to go at 7.45 pm. I have to catch the last train back to Skipton, otherwise I will be stranded in Leeds or somewhere dreadful. If I do not stay for the whole of the debate, I apologise.

I was going to withdraw Amendment 17, but I think that it would cause procedural chaos. Therefore, although I move it, I shall not speak to it or expect any answers. I shall speak to Amendment 19. I will withdraw Amendment 50 because the noble Baroness, Lady Knight, has tabled Amendment 49A, which does the same thing, only much better. I shall support her amendment when she speaks to it.

The Deputy Chairman of Committees (Viscount Ullswater): I think we should take things in order. Are you suggesting that Amendment 17 is not moved?

Lord Greaves: No, I am not. I am moving it in order to assist the Committee in the procedure. I shall not expect a reply from the Minister, but if he wishes to reply, that is entirely up to him. Otherwise, we will get into a certain amount of difficulty.

On Amendment 19, Clause 7(4) provides that the national flood and coastal erosion risk strategy is to be published in the form of a summary. That is all that it says. It seems to me that it should be published fully, and I therefore wish to replace the words "a summary" with "the strategy and a summary". It seems extraordinary that a document of this importance would not be properly published. I beg to move.

The Duke of Montrose: My Lords, I shall speak to Amendments 21 and 51, which are tabled in the name of my noble friend Lord Taylor of Holbeach. In this group of amendments, we are concerned with parliamentary oversight of the Environment Agency's work of establishing a national strategy. The Environment Agency has been tasked with a major undertaking that will have an impact on communities and individuals across the country. I do not doubt—indeed, I have every confidence—that the Environment Agency is up to the task. It has a strategy overview for all flood and coastal erosion risks in England and a similar role in Wales, and will retain responsibility for the management of main rivers and sea flooding.

I understand and support the reasons for giving this responsibility to the Environment Agency. It has the national reach, the personnel, the expertise and, perhaps most of all, the resources to conduct this strategic national overview. The agency is very properly tasked with consulting not only English risk management authorities but also Welsh Ministers and Scottish Ministers. However, because of that and because there is so much work and public money involved, I would be grateful if the Minister could give us some indication of the expected costs of establishing a national strategy. Since the contents of the strategy will affect so many people, it is vital that we exercise parliamentary oversight.

It is clear from the introductory debates that we have had today that there is great interest in the Bill in this place, which reflects much wider public interest. What happens in the national strategy will be of great significance to local communities who will need through their lead local authority to co-ordinate their own efforts with the measures recommended nationally. It is incumbent upon us as parliamentarians to make certain that the Environment Agency's proposals are realistic, workable and proportionate. Your Lordships' Committee on Delegated Powers and Regulatory Reform rightly points out that when the Environment Agency has produced its national strategy it may issue guidance about the application of the strategy. Clause 11(1) requires that the relevant authorities,

"act in a manner which is consistent with the … guidance".

My noble friend Lord Taylor of Holbeach has tabled amendments, which we will debate shortly, which question the requirements for consistency. However, for present purposes, we simply need to note the committee's surprise that compliance with the guidance is mandatory. In other words, what happens in the national strategy will matter locally. Having a parliamentary check on what is going on is essential.

Amendment 21 was designed to do the same thing as some of the government amendments, and noble Lords on the Liberal Democrat Benches seem to be thinking very much on the same lines with their amendments, which are to involve Parliament. I was slightly puzzled by Amendment 17 and am rather glad that the noble Lord, Lord Greaves is not asking us to address it. There is a great deal to be admired in the Bill, not least its structure of reciprocity between national and local authorities. As well as establishing the national strategy, at a local level regional flood and coastal communities will provide a local overview to ensure that local strategies are being developed and that flood risks are being managed appropriately and consistently. To support this, the Environment Agency will be required under Clause 18 to submit a report to the Minister on the state of all flood and coastal erosion risks in England, with a separate report for

Welsh Ministers. What goes into these reports will be of considerable and widespread interest.

Our Amendment 51 suggests that the agency's report should be laid before Parliament for approval. That may not be entirely necessary, but I should like Parliament to be given a chance to consider the reports. We are establishing a new approach to risk management in this Bill, and we should keep an eye on how these changes progress. This is a new process, and we should all be eager to improve on it when it needs to be improved and strengthen it whenever possible.

Lord Davies of Oldham: My Lords, I am grateful to all noble Lords who have spoken in this short debate. I am pleased to see that the noble Lord, Lord Greaves, is here to hear my reply to his Amendment 17. We already cover that area through the duty to consult the public; the issue was discussed in Committee in the other place, where the Minister made it absolutely clear that the timing of the consultation should be sufficient for the EFRA Committee, for example, to consider the strategy and that it would be arranged to avoid long overlaps with parliamentary recesses. Such timing should also provide sufficient opportunity for other parliamentarians to respond to the consultation without requiring the Bill to be amended. I think that honourable Members in the other place were reasonably satisfied by that ministerial reply.

Amendment 19 would require publication of the strategy, as well as the summary already identified in the Bill. The decision to require a summary to be published reflects the need to ensure that the strategy document is accessible to the public and stakeholders. The full strategy might include more detailed analysis of areas that we would not necessarily expect to be published, because of the sheer size of the exercise involved. However, we would expect them to be made available on request, for example; that would be done by the Environment Agency. If anyone asked for the total document, they should have the right of access to it without any doubt at all. But there is also a part that we should have reservation about—such information that might be classified for security reasons, which could not be published. However, we accept entirely the principle behind the amendment, but the publication of the synopsis will be more valuable to the public in terms of the overall strategy. If a member of the public wants the full detail, they should have right of access to it, and we ensure that.

Lord Greaves: I am grateful for that. This risks getting into the silly situation whereby Ordnance Survey used to miss out military bases from maps on the grounds that people would not know they were there if they were missed out, and as though they could not see them when they flew over them. Surely it is now perfectly possible to publish things on the internet, even if they would not be published as a great telephone directory-type volume. That would seem to be the way to make details accessible to those people—perhaps a minority—who want them.

7.45 pm

Lord Davies of Oldham: I cannot give immediate assent to that proposition, but I will take it on board. Certainly, it is consonant with our obvious intent that, as far as possible, there is effective communication with the Environment Agency and the public over the document. If the noble Lord will accept that assurance, I will look further at how we can effect that.

Noble Lords will recognise that I want to speak to Amendments 20 and 22, and move them in due course. They are in response to the Delegated Powers and Regulatory Reform Committee's report, which raised concerns about the Bill providing for guidance that it is mandatory to follow and advised that the House consider inviting Ministers to explain why guidance under Clause 7 was not subject to the negative resolution procedure in the same way as the guidance on contaminated land under Part 2A of the Environmental Protection Act is to be examined. We have considered this point and are happy to comply. Amendment 20 provides for the national flood and coastal erosion risk management strategy and the guidance for England to be subject to the negative resolution procedure, as the committee recommended.

I hope, by the same token, that the noble Duke, the Duke of Montrose, will withdraw his amendment. I think we have met the burden of Amendment 22. Amendment 50 was not moved. I should move more logically, in numerical order, to Amendment 49A. I have considerable sympathy with the point that was made about that amendment. I emphasise that the report will certainly be published as soon as is practicable. It is not necessary to place this obligation in the Bill, and I resist that. I fully expect reports to be published as soon as is practicable after they have been received. I made the point a moment ago that publication may have to be reserved for security or other reasons, but in broad terms, I accept the noble Baroness's point. I assure her that that is how we intend to act.

I think I have covered Amendment 51. The issue of cost was raised by the noble Duke, the Duke of Montrose. The Environment Agency will meet the initial costs of preparing the national strategy from its existing budget. That is its job. Key aspects of the strategy will build on material which already exists, such as the long-term investment strategy and the *Flooding in England* report which were published last summer. The Environment Agency has some of this information at present. It is on the agency that the burden will lie. No doubt if this is more burdensome than its budget will stretch to, it will make its presence felt as it always did in the past under the tutelage of the noble Baroness, Lady Young. If tasks were being enjoined that did not have sufficient resources, the point was made to the department, but we think this is within the agency's compass. I give assurance on that.

Our second amendment covers reports by the Environment Agency in relation to Wales. Welsh Ministers support calls for proper scrutiny. The Environment Agency has presented evidence to the Sustainability Committee of the National Assembly for Wales on flood and coastal erosion risk management several times in the past 12 months and is likely to be asked to do so regularly in the future. I hope that covers all points, although I was slightly thrown by the fact that the noble Lord, Lord Greaves, was partly here and partly gone, and his amendment partly moved and

[Lord Davies of Oldham]
partly withdrawn. I hope my reply is sufficiently comprehensive for the noble Lord to withdraw the amendment.

Baroness Knight of Collingtree: The Minister kindly made reference to an amendment which I have not yet been called upon to move, for the simple reason that it is to Clause 18. Am I right in thinking that I shall have an opportunity to put it forward when that clause is discussed?

Lord Davies of Oldham: Of course. If the noble Baroness wants to move the amendment when we reach Clause 18, she can do so and we can consider it then. I shall give the same reply.

Lord Faulkner of Worcester: If the noble Baroness wishes to take it out of the group, she is entirely free to do so on the next occasion that the Committee meets.

Baroness Knight of Collingtree: I am well conscious of the fact that the time that we had planned for this Committee is just about over, so I do not wish to delay the Committee at this point.

Lord Tope: My Lords, I think that I can confidently say that my noble friend Lord Greaves would wish to withdraw Amendment 17.

Amendment 17 withdrawn.

Amendments 18 and 19 not moved.

Amendment 20

Moved by ***Lord Davies of Oldham***

20: Clause 7, page 6, line 11, at end insert "; and it may not be issued if during the period of 40 days beginning with the date of laying (ignoring any periods for which Parliament is dissolved or prorogued or for which both Houses are adjourned for more than 4 days) either House of Parliament resolves that it should not be issued (in that form)."

Amendment 20 agreed.

Amendment 21 not moved.

Clause 7, as amended, agreed.

Clause 8 : National flood and coastal erosion risk management strategy: Wales

Amendment 22

Moved by ***Lord Davies of Oldham***

22: Clause 8, page 6, line 39, at end insert—

"( ) The Welsh Ministers must lay any guidance in draft before the National Assembly for Wales; and it may not be issued if during the period of 40 days beginning with the date of laying (ignoring any periods for which the National Assembly is dissolved or is in recess for more than 4 days) the National Assembly resolves that it should not be issued (in that form)."

Amendment 22 agreed.

Clause 8, as amended, agreed.

Lord Faulkner of Worcester: My Lords, this may be a convenient moment for the Committee to adjourn until next Wednesday at 3.45 pm.

Committee adjourned at 7.51 pm.

Written Statements

Wednesday 17 March 2010

Children: Laming Report

Statement

The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin): My right honourable friend the Secretary of State for Children, Schools and Families (Ed Balls) has made the following Written Ministerial Statement.

My right honourable friends the Secretaries of State for Justice, Health, the Home Secretary and I are today publishing the Government's response to Lord Laming: *One Year On*, an update on progress on implementing the Government's Action Plan in response to Lord Laming's report, *The Protection of Children in England: A Progress Report* published in March 2009 and a description of the priorities for the year ahead.

A great deal has been achieved. Over 50,000 people have registered for information on how to become a social worker in response to our national recruitment campaign. The Action on Health Visiting Programme has raised the profile of this important profession and introduced new requirements to monitor their numbers and case loads. There has also been significant focus and challenge on arrangements for child safeguarding across the NHS over the past year. A new police child protection delivery plan has also been commissioned which will set out recommendations for future improvements to police capability and practice to enhance the delivery of child protection within forces.

The report also pays tribute to the many thousands of social workers, teachers, police officers, doctors, nurses, health visitors and many others who support and protect children and young people. They are making a positive difference to so many children and young people's lives every day.

We are also publishing today a revised version of *Working Together to Safeguard Children*. This is the statutory guidance used by all those who work with children, young people, families and their carers. It implements many of Lord Laming's recommendations and also takes account of a consultation exercise that ran from December 2009 to February 2010. The revised guidance strengthens the requirements relating to the publication of serious case review (SCR) executive summaries, including requiring LSCBs to make sure that executive summaries accurately reflect the full overview report and include:

information about the review process;

key issues arising from the case;

the recommendations; and

the action plan.

These requirements, made explicit in a template setting out a recommended format for SCR executive summaries, will build on the action which we have already taken further to strengthen SCRs. Today's revised guidance also builds on responses from experts in child protection such as the NSPCC and Barnado's.

We will be working with stakeholders in the next few months to produce a short practitioner guide to complement *Working Together*.

We are also publishing today for consultation *Local Safeguarding Children Boards—Practice Guidance* and the Government's response to the *Working Together to Safeguard Children* consultation.

Also today, Sir Roger Singleton, the Government's first chief adviser on the safety of children, has produced his first independent annual report to Parliament on progress in safeguarding. I have written today to Sir Roger thanking him for his advice and support over the past year which has helped to shape and strengthen safeguarding policy across many areas. His report recognises the progress made but it also challenges us to go further in respect of resources, working closely with partners, learning from serious case reviews and supporting practice improvement. We welcome his report and look forward to working with him in the year ahead to tackle the issues he identifies, in partnership with the national safeguarding delivery unit and the many safeguarding stakeholders, service managers and front-line practitioners who are equally committed to making a difference for children, young people, families and carers.

One of the issues identified in his report is the increase in demand that many children's services are experiencing, especially children's social care. As a first step in responding to that, today we are announcing a new Local Social Work Improvement Fund of £23 million. This can be used flexibly by local authorities and their partners to put in place local solutions which help to reduce pressure at the front line and to build capacity for earlier support and intervention.

This commitment of new funding sits alongside *Building a Safe and Confident Future: Implementing the Recommendations of the Social Work Task Force* which we are also publishing today. This sets out our long-term and ambitious programme of reform for social work.

Keeping children safe is our highest priority. I am committed to working across government and with our national and local partners to do all we can to support, and where appropriate to challenge, with the aim of delivering the best possible outcomes for children and young people.

We are placing a copy of the above documents in the Libraries of both Houses. For more information, please visit www.dcsf.gov.uk/nsdu and www.dcsf.gov.uk/swrb.

Consolidated Fund (Appropriation) Bill

Statement

The Financial Services Secretary to the Treasury (Lord Myners): I have made a Statement under Section 19(1)(a) of the Human Rights Act 1998 that, in my view, the provisions of the Consolidated Fund (Appropriation) Bill are compatible with the convention rights. A copy of the Statement has been placed in the Library of the House.

Foreign and Commonwealth Office Services: Performance Targets

Statement

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): FCO Services operates as a Trading Fund of the FCO. I have set the following performance targets for 2010-11:

an in-year surplus before interest and tax of at least £4 million;

a return on capital employed of at least 3.5 per cent (weighted average);

wider market revenue growth of 10 per cent on that achieved in 2009-10;

a contribution to the FCO's Comprehensive Spending Review commitments by delivering £12 million of cumulative cash savings over the three years 2008-09, 2009-10 and 2010-11;

a utilisation rate for revenue earning staff of at least 76 per cent ; and

a customer satisfaction rating of at least 85 per cent satisfied or very satisfied.

FCO Services will report to Parliament on its success against these targets through its annual report for 2010-11.

Foreign and Commonwealth Office: Human Rights

Statement

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): My right honourable friend the Secretary of State for Foreign and Commonwealth Affairs (David Miliband) has made the following Written Ministerial Statement.

The Foreign and Commonwealth Office 2009 Annual Report on Human Rights will be published at 1700. The report explains the Government's activities and policies to address human rights challenges overseas in the period 1 January to 31 December 2009.

The report will be laid before Parliament this afternoon and copies will be made available in the Vote Office (and Printed Paper Office in the House of Lords). A copy of the report is also available on the Foreign and Commonwealth Office website (www.fco.gov.uk). I commend the report to the House.

Land Registry: Reorganisation

Statement

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): My right honourable friend the Minister of State, Ministry of Justice (Michael Wills) has made the following Written Ministerial Statement.

Land Registry is today announcing the conclusions of its consultations on the five-year programme of reorganisation and transformation that that was set out in my earlier Statement on 22 October 2009.

Land Registry believes that its decisions will help create an organisation that can meet the challenges of a developing property market, that can live within its means and that can continue to provide an outstanding service to its customers.

Land Registry has been involved in detailed discussions with its staff and their union representatives covering all the proposals since October and held a public consultation on the proposals to close five offices. Over 350 responses were received to the public consultation and Land Registry has made changes as a result. In addition, almost 600 members of the public and businesses took part in questionnaire surveys aimed at assessing the impact of the proposed office closures, and of these over 100 were engaged in follow-up telephone surveys and a further 36 business customers in focus groups.

Land Registry has recognised particular concerns that the initial proposals could have left it with no presence in the south-east of England (with the future of its head office being uncertain at that time). This would have meant that access to certain services that are currently provided face-to-face would have been restricted in this area.

In response to those concerns, Land Registry will now keep open its offices at Croydon and Peterborough. Land Registry will now be closing only two offices completely in 2011, those at Stevenage and Tunbridge Wells. In addition, the main Portsmouth office will close by 28 February 2011. Land Registry does, however, intend to retain a reduced presence in Portsmouth, co-located with Portsmouth City Council, until 31 March 2013. Land Registry has decided upon this approach in recognition of representations that, due to particular local circumstances, a longer period of transition was desirable.

Land Registry will close one of its offices in Plymouth, relocating the staff affected to its other main building in the city.

The conclusion of the head office review has resulted in a decision to co-locate this with the Croydon local office. Discussions will now be held with staff and their unions and work will be done to ensure that customers using the contact centre at Lincoln's Inn Fields are alerted to the changes.

Land Registry's Board also recognises that the prospect of a further two office closures beyond 2011 was creating particular uncertainty. Therefore, further staff reductions beyond 2011 will be achieved as far as possible through targeted voluntary redundancy severance, rather than office closures.

A combination of office closures and voluntary severance means Land Registry will reduce by 1,400 staff to 4,600 by 2011. Additional voluntary severance between 2011 and 2014 should result in a further reduction to 3,800. The staff numbers used here are on a full-time equivalent (FTE) basis. The total number of staff in post, taking account of part-time working et cetera, is estimated at just over 5,000 by the end of 2011 and 4,200 by the end of 2014. This decision means that a third less staff will be facing compulsory redundancy than was originally envisaged.

The proposals regarding the outsourcing of certain support functions have been confirmed.

The decisions announced today retain a greater office presence than the original proposals and rely more on the use of voluntary redundancies, but are still expected to save around £500 million over 10 years.

Final decisions, following consultation, should mitigate significantly the impact on Land Registry's loyal and hard working staff. There will be more opportunities for staff to apply for voluntary severance. For those facing compulsory redundancy, there will be more opportunities for re-deployment in Land Registry or to other government departments, and a comprehensive support package is being put in place—including outplacement support, opportunities for further education and financial advice.

Land Registry believes that the decisions will allow it to make far better use of its buildings and to create significant efficiency savings.

Building as robust and sustainable an organisation as possible will allow Land Registry to be proactive rather than passive in the face of market changes and to be in good shape for a recovery in the property market. Land Registry will be formulating a clear vision and strategic plan of delivery over the coming months to position itself for the future. Land Registry will continue to work to meet the needs of its customers and harness technology to build services around those needs.

The Lord Chancellor also approved changes to Land Registry's governance arrangements that will result in a new Land Registry Board, chaired by a non-executive chairman and with more non-executive directors. The new arrangements will strengthen Land Registry's corporate governance and ensure that the actions of the Chief Land Registrar and his management team are subject to appropriate scrutiny.

Land Registry has today published *Land Registry's Accelerated Transformation Programme: Consultation Responses Report*, copies of which have been placed in the Libraries of both Houses and are available in the Vote Office and the Printed Paper Office.

Police: DNA Database

Statement

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): My honourable friend the Parliamentary Under-Secretary of State for the Home Office (Meg Hillier) has today made the following Written Ministerial Statement.

My right honourable friend the Home Secretary has today laid before the House a statutory code of practice on the operation and use of the police national database (PND). The code of practice is made under Section 39A of the Police Act 1996, following a public consultation exercise which finished at the beginning of February 2010.

The PND will for the first time enable the police service in England, Wales, Scotland, Northern Ireland, and other law enforcement bodies that support public protection, to share, access and search existing local intelligence and operational information on a national basis. The PND fulfils one of the key recommendations of Sir Michael Bichard's inquiry into the Soham murders and will replace the interim information-sharing solution we put in place in 2005, the IMPACT Nominal Index.

The PND, which is due to be launched in May 2010, will provide forces with immediate access to up-to-date information from across the service. It will bring together existing data from five operational areas of policing—custody, crime, intelligence, child abuse and domestic abuse in to one central system. It will help the police to prevent and detect crime, with a focus on safeguarding children and vulnerable people, countering terrorism and preventing and disrupting serious and organised crime.

The purpose of the code of practice is to promote consistent and lawful use of the PND. Chief police officers will have to have regard to the code and the supporting guidance when adopting practices for the use of the PND and the information obtained from it. This will help to ensure that such information is used effectively for policing purposes.

The PND will not hold new information—it will store intelligence and other information held on local force systems—but there will be concerns about how this information is used. The code of practice is one of a number of important safeguards that will help to prevent misuse of the new system.

Copies of the code of practice will be made available in the Vote Office.

Police: Northern Ireland

Statement

Baroness Royall of Blaisdon: My right honourable friend the Minister of State for Northern Ireland (Paul Goggins) has made the following Ministerial Statement.

On 9 March 2010 the Northern Ireland Assembly voted, on a cross-community basis, to request the devolution of matters relating to policing and justice. The legislation required to give effect to the transfer of these powers will be debated in the House next week.

To underpin the practical arrangements relating to policing and justice post-devolution to the Northern Ireland Assembly, several documents have been developed or revised. These documents are, in summary:

A Protocol on National Security

The national security protocol sets out how the Secretary of State and the Justice Minister will work together where there is an interface between the Justice Minister's responsibilities for policing and justice and the Secretary of State's statutory responsibility for national security.

Concordats on Judicial Independence and on Prosecutorial Independence

Concordats are non-legally binding agreements between the UK Government and the devolved Administration. Both of these documents underscore the principles of judicial and prosecutorial independence enshrined in legislation, and reflect the constitutional position that there should be a clear separation between the executive arm of government and the administration of the law.

Intergovernmental Agreements on Criminal Justice Co-operation and on Police Co-operation

There are existing agreements in these fields between the two sovereign Governments of the United Kingdom and Ireland and they are binding in international law. They now incorporate minimal amendments that are necessary to take account of the devolution in responsibility for policing and justice. The purpose of the agreements is to underpin cross-border co-operation on policing and criminal justice.

A separate protocol on policing architecture is in development and will be finalised by the Northern Ireland Executive after devolution. I expect to be able to share this with Parliament at a later date.

I have arranged for copies of each of the documents to be placed in the Library of the House.

Prison Service Pay Review Body

Statement

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): My honourable friend the Minister of State, Ministry of Justice (Maria Eagle) has made the following Written Ministerial Statement.

My right honourable friend the Lord Chancellor and Secretary of State for Justice has appointed Professor John Beath for three years, and reappointed John Davies and Bronwen Curtis, also for three years, as members of the Prison Service Pay Review Body, all commencing March 2010. The appointment and reappointments have been conducted in accordance with the Office of the Commissioner for Public Appointments' code of practice for ministerial appointments to public bodies.

Social Work

Statement

The Parliamentary Under-Secretary of State, Department of Health (Baroness Thornton): My right honourable friend the Secretary of State for Health (Andy Burnham) has made the following Written Ministerial Statement.

With my right honourable friends the Secretaries of State for Children, Schools and Families, and Business, Innovation and Skills, I am today publishing *Building a Safe and Confident Future: Implementing the Recommendations of the Social Work Task Force*. In December 2009, the Social Work Task Force made 15 focused recommendations for the fundamental reform of the system that supports social workers in England. This publication sets out how the Government are working with employers, higher education institutions, the profession itself and people who use social work services to put those recommendations into effect.

Every day high quality social work makes a big difference, not only to the safety, prospects and life chances of individuals, but also to the stability and equality of our society. It is therefore essential that the right support and systems are in place to enable social workers to practise to the highest professional standards.

Building a Safe and Confident Future sets out a route map for how the task force's recommendations will be achieved over the next five to 10 years. Some of the changes recommended by the task force can and must make a difference immediately. Other task force recommendations will require extensive consultation and require time to put in place. *Building a Safe and Confident Future* sets out the anticipated timescales for implementing all of these recommendations, including:

work already under way in establishing the independent college of social work with the recruitment process for an interim chair to begin this month and the expectation that the college will be a fully functioning independent organisation by April 2011;

the expectation that over the coming year all social worker employers will work with their staff to conduct a local "health check" of the support they have in place, and to take action for improvement where necessary;

improvements to initial social worker education with strengthened entry requirements to the social work degree;

reviews of the degree curriculum, bursary arrangement and the quality and quantity of practice placements, and more transparent and improved regulation of higher education providers;

consultation and assessment of options and impact for the introduction of the recommended assessed year in employment and licence to practise; and

consultation on a new framework for continuing professional development in social work beginning in summer 2010 with the framework to be phased in from 2011.

The reform programme will require sustained commitment from all partners over a number of years. To establish the firmest possible foundation for this, *Building a Safe and Confident Future* is accompanied by a commitment to government investment of more than £200 million in 2010-11. This investment is additional to core funding for social work in higher education, local government and the NHS. It will be used to support recruitment, student bursaries and practice placements, workforce development, improvement of IT in children's services and supporting employers to remodel services.

In recognition of particular pressures on local authority children's services, £23 million of the Government's £200 million investment in social work next year will go directly to LAs to put in place local solutions which help to reduce pressure on front-line social workers and will build capacity for reform and improvement. Local authorities will be expected to consult social workers and local safeguarding partners in deciding how to use it. This will be accompanied by a £15 million capital grant from DCSF to local authorities for the improvement of information technology systems, including the integrated children's system.

We are placing a copy of *Building a Safe and Confident Future: Implementing the Recommendations of the Social Work Task Force* in the Library and copies are available for honourable Members from the Vote Office.

Terrorism: Finance

Statement

The Financial Services Secretary to the Treasury (Lord Myners): My honourable friend the Exchequer Secretary to the Treasury has made the following Written Ministerial Statement.

An Order in Council in respect of the Turks and Caicos Islands has been made today. It comes into force on 18 March 2010.

The Order in Council provides new powers for the Governor of the Turks and Caicos Islands to implement a graduated range of financial restrictions in response to certain risks to the interests of the Turks and Caicos Islands or the United Kingdom. The risks it addresses are those posed by money laundering, terrorist financing, and the proliferation of chemical, biological, radiological and nuclear weapons. Any directions given under the order will be made by the governor of the islands.

The powers replicate those in Schedule 7 to the Counter-Terrorism Act 2008 which apply to the United Kingdom. The Order in Council has been made in response to a request by the Turks and Caicos Islands.

Written Answers

Wednesday 17 March 2010

Access to Work Scheme

Question

Asked by ***Baroness Thomas of Winchester***

To ask Her Majesty's Government further to the Written Answer by Lord McKenzie of Luton on 12 November 2009 (*WA 181*), what further consideration they have given to reviewing the guidance about the Access to Work scheme for disabled councillors. [HL2467]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): The department has completed its review of the guidance in relation to councillors' eligibility for support through the Access to Work scheme. We agree that the situation was unclear and have therefore amended the guidance. The revised guidance makes clear that where disabled councillors receive allowances over and above reimbursement of meal and travel costs, and they meet the other eligibility criteria, they will be treated as being in employment for Access to Work purposes and may be eligible for support through the scheme. They will not now have to satisfy the national minimum wage requirements.

The revised guidance applies immediately and has already been brought to the attention to advisers.

I thank the noble Baroness for having raised this matter.

Afghanistan: Bagram Prison

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government further to the Written Answer by Lord Brett on 1 March (*WA 317*), whether they will ascertain from the United States authorities how many persons held by them at Bagram or elsewhere in Afghanistan have been transferred there from other countries. [HL2649]

Lord Brett: US Forces have used Bagram detention facility for a number of years as an integral part of their counter-insurgency capability in Afghanistan. The UK would not expect to have full visibility of any other nation's detention programmes. However, the US have assured the UK Government that their detainees are held in a humane, safe and secure environment.

Agriculture: Genetically Modified Crops

Questions

Asked by ***The Countess of Mar***

To ask Her Majesty's Government on which occasions the Food Standards Agency have asked the GM advisory committees (ACAF, ACNFP and ACRE) to scrutinise the scientific dossiers submitted by applicants for GM approvals. [HL2619]

The Parliamentary Under-Secretary of State, Department of Health (Baroness Thornton): Until 2004, the committees advising the Food Standards Agency (FSA) examined all dossiers submitted for the authorisation of genetically modified (GM) food and GM animal feed, under Regulation (EC) 258/97 and Directive 2001/18/EC respectively.

Since 2004, applications for approval of GM food and feed have been submitted under Regulation (EC) 1829/2003, which provides a centralised European Union procedure for the assessment and approval of GM food and feed. The European Food Safety Authority (EFSA) has responsibility for risk assessments under this regulation. The FSA does not ask its advisory committees to duplicate EFSA's assessments but would be able to do so where there is a specific food safety issue to be resolved.

The Advisory Committee on Releases to the Environment (ACRE) is an expert committee that advises the Department for Environment, Food and Rural Affairs (Defra) on environmental issues. Defra seeks the committee's advice on the environmental implications of all proposals to release GM seeds for cultivation and on applications to market food or feed products that consist of living GM organisms.

Asked by ***The Countess of Mar***

To ask Her Majesty's Government further to the Written Answer by Lord Darzi of Denham on 17 December 2008 (*WA 43*), what has been the advice of the Advisory Committee on Novel Foods and Processes on the implications of research studies on the safety of genetically modified crops. [HL2622]

Baroness Thornton: The Advisory Committee on Novel Foods and Processes considered the three papers referred to in the previous Written Answer at its meeting on 19 February 2009. The committee considered that the results in all three papers were inconclusive and no conclusions could be drawn from them. The committee's discussions are recorded in the minutes of its February 2009 meeting, which are available on its website at www.acnfp.gov.uk/meetings/acnfpmeet09/acnfpfeb09/acnfpmin190209.

Airports: Body Scanners

Questions

Asked by ***Lord Dykes***

To ask Her Majesty's Government what discussions they will have with managers of United Kingdom airports to ensure that security screening devices do not offend Muslim and other ethnic and religious groups. [HL2688]

The Secretary of State for Transport (Lord Adonis): The Department for Transport is in regular discussion with airport operators on a range of security issues, including those relating to the deployment of body scanners.

In addition an interim code of practice has been produced following discussions with industry and other government departments for the initial deployment of body scanners.

The department will be launching a full public consultation shortly on the interim code of practice and will consider all representations carefully before preparing a final code of practice later in the year.

Asked by ***Lord Dykes***

To ask Her Majesty's Government what assessment they have made of when airport screening devices will have technology which will prevent passengers from having to be inappropriately exposed. [HL2689]

Lord Adonis: There is a range of different technologies deployed at UK airports for security screening. These technologies have been tested and evaluated by my department both for their detection performance and in respect of operational issues, including protection of privacy.

As the use of body scanners on a global scale increases it is likely that demand will stimulate continued innovation by industry, improving the technology and minimising the privacy impact of body scanners.

Asbestos: Trinitas Services Ltd

Questions

Asked by ***Lord Berkeley***

To ask Her Majesty's Government whether they will place in the Library of the House a copy of the accounts of Trinitas Services Ltd for the past five years. [HL2671]

The Secretary of State for Transport (Lord Adonis): Trinitas Services Ltd is a private company (Company No. 02801613) limited by shares and wholly owned by a registered charity and as such accounts are not placed in the Library of the House, but filed at Companies House.

Asked by ***Lord Berkeley***

To ask Her Majesty's Government what representation Trinity House has on the board of Trinitas Services Ltd. [HL2672]

Lord Adonis: Trinitas Services Ltd is a private company (Company No. 02801613) limited by shares and wholly owned by a registered charity.

The composition of the board is a matter for the company which files its records as required to Companies House.

Burma

Questions

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government what assessment they have made of the report by the Karen Women's Organisation Walking Amongst Sharp Knives about alleged human rights abuses against Karen women village chiefs in eastern Burma. [HL2818]

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): This report documents horrific abuses against women in Karen State, and reflects the environment in many parts of Burma where individual rights and rule of law are not respected. Officials from our embassy in Rangoon are not permitted access to the areas highlighted in the report, but through the Department for International Development and embassy-funded programmes, we provide significant support to vulnerable communities in Karen State and along the Thai Burma Border. We continue to urge the Burmese authorities to respect human rights and begin an inclusive and credible transition to democracy

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government what discussions they have had with the government of Bangladesh over the recent arrests and forced displacements of Rohingya refugees; and whether they have asked Bangladesh to recognise undocumented Rohingya refugees. [HL2820]

Baroness Kinnock of Holyhead: We are concerned by the recent reports by Medecins Sans Frontieres and Physicians for Human Rights on the situation facing displaced Rohingyas in Bangladesh. We have raised the plight of the Rohingyas and their status with the Government of Bangladesh, both bilaterally and in concert with EU partners.

Officials from our High Commission in Dhaka, including the high commissioner, have visited the camps for displaced Rohingyas, which are run by UN agencies. We are also supporting the European Commission and UN programmes for Rohingyas through the UK's core funding to the EU and the UN. In 2009, the Government also funded a British Council project to train English teachers within the camps.

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government what assessment they have made of the relocation of 15,000 civilians by the Government of Burma for the Myitsone dam construction in Kachin State. [HL2821]

Baroness Kinnock of Holyhead: We are concerned about the impact of the construction of the Myitsone Dam on the environment and the human rights of local people. Officials from our embassy in Rangoon have visited the dam site on several occasions, most recently in January 2010. We understand that local people have been told to leave the area, although have so far refused to do so. Our embassy in Rangoon is supporting work to assess the social and environmental impact of this and other dam projects.

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government what assessment they have made of whether North Korea is supplying arms to Burma. [HL2823]

Baroness Kinnock of Holyhead: We are aware of recent media reporting suggesting North Korea and Burma are engaged in illicit arms trading. The UK

continues to urge all countries, including Burma, to respect their obligations under UN Security Council Resolutions 1718 and 1874 which prohibit the export from North Korea of "all arms and related material".

Buying Solutions

Question

Asked by ***Baroness Northover***

To ask Her Majesty's Government how much was paid by the Home Office and its agencies to (a) PricewaterhouseCoopers, (b) KPMG, (c) Deloitte, (d) Ernst & Young, (e) Grant Thornton, (f) BDO Stoy Hayward, (g) Baker Tilly, (h) Smith & Williamson, (i) Tenon Group, (j) PKF, (k) McKinsey and Company, and (l) Accenture, in each of the past five years for which information is available; how they monitor contracts with those firms; and how the department reports (1) during, and (2) at the end of, contracts to Buying Solutions. [HL2088]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): From the best available management information the Home Department and its executive agencies spend with each company for the period 1 April 2004 to 31 March 2009 is shown in the attached table:

All figures provided are subject to accounting adjustment and amendment.

The performance of firms under contract to the Home Department is monitored by means of assignment management by the relevant commissioning business areas. Delivery against associated project and programme objectives is managed as part of standard project and programme management practices within the Home Office.

The Home Office participates in OGC and Buying Solutions-led forums, programmes, and oversight boards to confer on the performance both during and after assignment of firms and services contracted under Buying Solutions commercial arrangements.

Table 1

Supplier Name	*FY 04/05*	*FY 05/06*	*FY 06/07*	*FY 07/08*	*FY 08/09*
Pricewaterhouse Coopers	£2.1 m	£3.7m	£4.1m	£2.6m	£1.2m
KPMG	No information available.	£0.1 m	£1.1 m	£2.4m	£2.8m
Deloitte	£0.7m	£2.8m	£13.8m	£11.1 m	£23.2m
Ernst & Young	No information available	£0.5m	£3.9m	£3.6m	£18.4m
Grant Thornton	£0.4m	£0.1m	£0.1m	£0.1m	£0.005m
BDO Stoy Hayward	No information available	No information available	No information available	No information available	No information available
Baker Tilley	No information available	No information available	No information available	No information available	No information available
Smith & Williamson	No information available	No information available	No information available	No information available	No information available
Tenon Group	No information available	No information available	No information available	No information available	No information available
PKF (Pannell Kerr Forster)	£0.2m	£0.2m	£0.8m	£0.1m	No information available
McKinsey and Company	£6.6m	£4.9m	£1.6m	£0.05m	No information available
Accenture	£.0.04m	£3.3m	£1.2m	£0.5m	£2.3m

Civil Aviation Authority

Question

Asked by ***Lord Tebbit***

To ask Her Majesty's Government whether the Civil Aviation Authority's (CAA) Instrument Meteorological Conditions Rating will be available as an endorsement to the proposed European licence scheduled to replace the CAA Private Pilot Licence. [HL2673]

The Secretary of State for Transport (Lord Adonis): The European Aviation Safety Agency (EASA) is now responsible for establishing the standards for pilot licensing in the European Union. EASA is currently reviewing proposals for private pilots ratings and will consult on revised draft rules later this year. The Civil Aviation Authority, with the support of government, continues to work to influence the development of European requirements with the aim of helping EASA meet its primary objective of ensuring a high uniform level of safety.

Civil Service: Redeployment

Question

Asked by ***Earl Attlee***

To ask Her Majesty's Government how many civil servants are in a redeployment pool. [HL2744]

Baroness Crawley: The Cabinet Office does not hold central statistics on the number of employees in redeployment pools across the Civil Service.

Education: Home Schooling

Question

Asked by ***Lord Lucas***

To ask Her Majesty's Government whether they will withdraw and reissue their home-educated children with special educational needs (SEN) guidance letter of February 2010 with (a) appropriate annotations to the reference to powers which will come into being if the current Children, Schools and Families Bill is enacted; (b) provision being made for inter-agency consultation on the best interests of the child before a school attendance order is sought; and (c) spelling and grammatical errors and malapropisms corrected. [HL2165]

The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin): The letter will not be withdrawn. Its purpose was to set out local authorities' existing duties for children with special educational needs (SEN) who are educated at home, taking account of the Lamb inquiry report into parental confidence in the SEN system. Following correspondence received from the Education Otherwise Disability Group the department will be sending out a clarification of paragraph 12 of the letter to local authorities.

A copy will be placed in the House Library and on the department's website.

Egypt: Rafah Crossing

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government who will decide whether the European Union Border Assistance Mission in Rafah can resume work at the crossing into Gaza; and what criteria will be used to make that decision. [HL2701]

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): The protocol establishing the EU Border Assistance Mission in Rafah forms part of the annex to the 2005 Access and Movement Agreement which was signed by Israel, the Palestinian Authority and the United States. In practice any decision to redeploy the mission at the crossing point would require the agreement of those three parties and would also require no objection to be raised by the Egyptian Government.

Given the current security situation in the Gaza strip and the ongoing control of the Palestinian side of the crossing by the Hamas authorities, we do not expect any such redeployment in the immediate future. Internally, the decision to reactivate the mission will be made at the EU Political and Security Committee (PSC) by 27 member states. The PSC's decision would depend on the Mission's evaluation of the security situation and the status of the Rafah Crossing Point facilities, including the Liaison Office in Kerem Shalom.

Elections

Questions

Asked by ***Lord Roberts of Llandudno***

To ask Her Majesty's Government how many days there are between the close of nominations for parliamentary elections and (a) the last day for receipt of postal vote applications, and (b) polling day. [HL2722]

Asked by ***Lord Roberts of Llandudno***

To ask Her Majesty's Government how many days there are between the close of nominations for elections to the European Parliament and (a) the last day for receipt of postal vote applications, and (b) polling day. [HL2723]

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): At parliamentary elections, the last day both for the delivery of nomination papers and for the receipt of postal vote applications is the 11th working day before the date of the poll.

For elections to the European Parliament, the last day for the delivery of nomination papers and list of candidates of registered parties is the 19th working day before the date of the poll. This is eight working days prior to the last day for receipt of postal vote applications, which is the 11th working day before the date of the poll.

Elections: Wards

Question

Asked by ***Lord Smith of Finsbury***

To ask Her Majesty's Government what representations they have received in relation to the Boundary Commission's proposal to remove the name "Moresk" in the new warding arrangements for Cornwall; how they will respond to those representations; and how they intend to proceed thereafter. [HL2461]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): We have received one representation from Matthew Taylor MP on behalf local Councillor Bert Briscoe. As we explained in response to that representation, such changes to electoral arrangements in local authorities (including ward name changes) are entirely the responsibility of the independent Electoral Commission (from 1 April 2010 the responsibility of the new Local Government Boundary Commission for England). There is no role for the Secretary of State in these matters.

However, provisions in the Local Government and Public Involvement in Health Act 2007 allow Cornwall Council to change the name "Moresk" although if the council were to seek to do this within five years of the order establishing the electoral arrangements the Local Government Boundary Commission would need to approve the change. I understand that such consent would not be unreasonably withheld.

Electoral Commission

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government whether they will consider increasing the investigative and summoning powers of the Electoral Commission. [HL2692]

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): The Electoral Commission was established by the Political Parties, Elections and Referendums Act 2000. That Act provided the commission with powers to require information or documents relating to income and expenditure from supervised individuals or organisations (as defined in that Act). These powers enable the commission to carry out its monitoring function of checking whether relevant restrictions have been complied with.

In addition to these powers, Schedule 1 to the Political Parties and Elections Act 2009 provides the commission with new powers to enable it to investigate certain suspected offences under the 2000 Act or certain other breaches of the regulatory rules set out in that Act. These include a power to require, through a court if necessary, the disclosure of documents for the purposes of an investigation. There is also a power to require individuals to attend at a specified time and place to answer oral questions put by the commission in connection with an investigation. It is a criminal offence for any person to fail, without reasonable excuse, to comply with any requirement from the commission to provide documents or attend an interview. It is intended that these powers will support the use of the new civil sanctioning powers of the commission which are given by Schedule 2 to the 2009 Act.

As set out in the Written Ministerial Statement of 24 November 2009 (*Official Report*, Commons, cols. *68WS-70WS*), the Government's intention is that the Electoral Commission's new investigatory and civil sanctioning powers will be brought into force with effect from 1 July 2010.

Energy: Electricity

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government what support they intend to give to the private sector promoters of the European supergrid for sustainable supplies of electricity without generating carbon emissions. [HL2567]

The Minister of State, Department of Energy and Climate Change (Lord Hunt of Kings Heath): Ministers from the UK, Germany, France, Belgium, the Netherlands, Luxembourg, Denmark, Sweden, the Republic of Ireland and Norway have together launched the North Seas Offshore Grids Initiative, which commits the 10 countries to working together to develop offshore infrastructure in the North, Irish and Baltic Seas. In recognition of the fact that the complexity of the initiative calls for political support from governments, we intend to sign a Memorandum of Understanding later in the year, which will set out a strategic work plan.

Her Majesty's Government are also supporting the initiatives to develop concentrated solar power and wind energy in North Africa and the Middle East, for example the Mediterranean Solar Plan, being taken forward by France and the current Spanish presidency of the European Union. These involve strengthening the European grid and increasing links with the producer countries so that the renewable energy can be transported to Europe. In February, I spoke at a seminar organised by DESERTEC, an international network of scientists and engineers who promote investment in concentrated solar power in North Africa.

More generally, we are working with governments and regulators in other member states to put in place the regulatory framework to facilitate the cross-border grid investments which will be needed to transport low-carbon energy supplies across the European Union.

Energy: Palm Oil

Question

Asked by ***The Earl of Selborne***

To ask Her Majesty's Government what volume of palm oil is used in (a) biofuels for power generation, (b) biofuels for road fuels, and (c) B30K oil. [HL2813]

The Minister of State, Department of Energy and Climate Change (Lord Hunt of Kings Heath): Ofgem reports that power stations accredited under the UK's Renewables Obligation Orders used about 7.4 million litres of palm oil in the period April 2008 to March 2009. The Renewable Fuels Agency reports that 127 million litres of palm oil biodiesel were supplied under the Renewable Transport Fuels Obligation in the UK in the period mid April 2008 to mid April 2009. We are not aware of any commercial use of B30K oil.

European Commission: General Report 2009

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government why the European Commission's General Report on the Activities of the European Union for 2009 devotes three sentences to "war, refugees and forgotten crises" and does not mention the war in Lebanon in 2006 or the blockade of Gaza by Israel. [HL2702]

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): The report is the responsibility of the Commission and not of member states. However, it does include comment on the humanitarian situation in Gaza. And as an annual report it is unsurprising that it does not cover the Lebanon war in 2006.

In other sections the report draws attention to EU humanitarian funding (page 65) some of which is apportioned to both Gaza and Lebanon, and to the EU Election Observation Mission to Lebanon (page 63). The Foreign Affairs Council comments frequently on these issues, most recently on Gaza in its December conclusions.

Expenditure: Office Equipment

Question

Asked by ***Lord Bates***

To ask Her Majesty's Government what was the average purchase price, excluding value added tax, of a 500-sheet ream of white A4 80 gsm photocopier paper paid by the Independent Safeguarding Authority in the latest period for which figures are available; and how much it spent in total on all photocopier paper in the last year for which figures are available. [HL2355]

The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin): The Independent Safeguarding Authority (ISA) is a non-departmental public body belonging to the Home Office, which it has done so since its creation. The Department for Children, Schools and Families (DCSF) does not provide any support to the ISA for the purchasing of paper on their behalf.

The total spend for photocopying paper purchase by DCSF for the period 1 January to 31 December 2009 was £22,108.16

The data has been provided by the department's supplier for stationery, Banner Business.

Gaza

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government what representations they have made this year to the Government of Israel about their blockade of Gaza, in particular (a) the closing of the Keren Shalom crossing for two days per week, (b) the restriction of the Karni crossing to wheat movements only, (c) the closing of the Nahal Oz crossing since 1 January, (d) the reduction in heavy oil imports for Gaza Power Plant, (e) the decline in truckloads entering Gaza, and (f) the ending of all imports of glass since 17 February; and what responses they have received. [HL2646]

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): Officials, including the ambassador, in Tel Aviv have continued to raise our concerns over access to Gaza with the Israeli authorities, including the new head of the Israeli army department overseeing the crossings. We remain deeply concerned by the restrictions on the crossings, not just for imports of humanitarian and reconstruction materials, but also for exports, on which the restoration of the Gazan economy depends.

Our understanding is that recent reductions in oil imports have mainly been due to problems surrounding the transfer of utility payments from the Gaza Electricity Distribution Company to the Palestinian Authority in Ramallah, which places the fuel orders. The Government of Israel recently agreed to allow a further shipment of glass into Gaza.

Government Departments: Consultancy Services

Questions

Asked by ***Baroness Warsi***

To ask Her Majesty's Government how much the Department for International Development and its agencies spent on (a) public relations consultants, and (b) public affairs consultants, in each of the past three years; and for what purposes. [HL2450]

Lord Brett: The information cannot be provided without incurring disproportionate costs.

Asked by ***Baroness Warsi***

To ask Her Majesty's Government how much the Department for Environment, Food and Rural Affairs and its agencies spent on (a) public relations consultants, and (b) public affairs consultants, in each of the last three years; and for what purposes. [HL2451]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham): In Defra, public relations cover a wide range of activity which forms an important element of a broader communications mix. This can include advertising, direct marketing, live events and publications. Defra does not use public affairs consultants.

The table below shows public relations activity procured via Defra's Communications Directorate since FY 2006-07 using the COI public relations framework. Please note that we are unable to share the 09-10 figures at this time as they have yet to be fully audited.

Detailed spend by Defra agencies is not held centrally and could only be collated at disproportionate cost.

Financial year	*PR agency*	*Campaign*	*Expenditure (£)*
2006-07	EdComs and Blue Rubicon	Defra Year of Food and Farming	50,872
	Amazon PR	Sustainable Development	48,973
	Trimedia Harrison Cowley	Act on CO_2 campaign	49,250
	Amazon PR	Sustainable development	48,973
2007-08	Trimedia Harrison Cowley	Act on CO_2 campaign (including a series of regional roadshows)	476,301
	Munro and Forster	Waste	64,424
	Trimedia Communications UK	Climate Change Champions	32,216
	EdComs and Blue Rubicon	Defra Year of food and Farming	242,578

Financial year	PR agency	Campaign	Expenditure (£)
2008-09	EdComs and Blue Rubicon	Defra Year of food and Farming	28,230
	Trimedia Communications UK	Act on CO_2 campaign	78,529

Asked by ***Baroness Warsi***

To ask Her Majesty's Government how much the Department for Children, Schools and Families, its predecessors and its agencies spent on (a) public relations consultants, and (b) public affairs consultants, in each of the past three years; and for what purposes. [HL2498]

The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin): The department uses public relations agencies for raising public awareness on specific issues. Public relations agencies are employed for specific communications tasks, most commonly working alongside our press office to provide campaign support in local, regional and specialist media. The department's expenditure on public relations for complete financial years, since its formation in June 2007, is outlined in the table below.

Year	Total spend (£)
2007-08	2,333,000
2008-09	4,023,403

Asked by ***Baroness Warsi***

To ask Her Majesty's Government how much the Department for Culture, Media and Sport and its agencies spent on (a) public relations consultants, and (b) public affairs consultants, in each of the past three years; and for what purposes. [HL2499]

Lord Davies of Oldham: The costs of the department's contracts with public relations consultancies in each of the past three years are as follows:

Year	PR consultancy	Spend
2007-08	N/A	zero spend
2008-09	Edelman	£186,495
	Fleishman-Hillard Group Ltd	£1,175
2009-10	Edelman	£241,323

Edelman provided support to the department on the cabinet project in relation to the following workstreams; network development, stakeholder engagement (including obtaining speakers), delegate recruitment, website development, content development, media engagement and the future development of cabinet. Fleishman-Hillard Group Limited provided research and communications support to the Government Olympic Executive (GOE).

The GOE has also employed two public relations consultants, at a cost of £40,000, up to the period January 2010, to create, plan and promote participation in legacy programmes inspired by the London 2012 Games.

The department's agency, the Royal Parks, has advised of the following public relations and public affairs consultancies:

Year	PR consultancy	Spend
2007/08	Bellenden	£4,700
	Brunswick	£10,575
2008/09	Bellenden	£4,600
	Cavendish Communications	£24,302
2009/10	Bellenden	£2,350
	Cavendish Communications	£17,250
	Colman Getty	£5,997

These companies provided communications support on Regent's Park sports and the "Park Stories" cultural engagement project; administrative support for the All-Party Horticultural Working Group; and stakeholder audit/perception research.

Government Departments: Illegal Immigrants

Question

Asked by ***Baroness Warsi***

To ask Her Majesty's Government how many illegal immigrants have been found to be working for the Department for Children, Schools and Families, its predecessors and its agencies in each of the past five years. [HL2379]

The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin): People employed to work in government departments and their agencies, either directly or through a contractor, are required to satisfy requirements on identity, nationality and immigration status prior to the offer of employment.

My department has no record of having employed an illegal immigrant in the past five years.

Health: Dentistry

Questions

Asked by ***Baroness Masham of Ilton***

To ask Her Majesty's Government what assessment they have made of the level of dentistry available to prisoners. [HL2804]

Asked by ***Baroness Masham of Ilton***

To ask Her Majesty's Government what assessment they have made of the facilities in which prison dentistry is provided; and what plans they have to improve such facilities. [HL2805]

The Parliamentary Under-Secretary of State, Department of Health (Baroness Thornton): The department took over responsibility for prison health from the Home Office in 2003. Our policy is to ensure that prisoners enjoy the benefits of the National Health Service care system in line with other members of the community with services for the treatment of existing disease and support on maintaining good oral health. In 2006, 82.5 per cent of prisons were reported to have a service specification with a primary care trust (PCT). However, meeting service needs remains challenging because the amount of untreated dental disease among prisoners is approximately four times greater than the level found in the general population with higher incidence of a history of hazardous drinking, smoking and use of illicit drugs. These challenges were examined in greater detail in dentistry in prisons a guide to working within the prison environment produced by the National Association of Prison Dentistry and published by Stephen Hancocks Ltd 2010. We will shortly be building on these developments by issuing a toolkit to support PCTs in commissioning appropriate high quality integrated oral health services for prisons and to help providers understand the standards expected by PCTs when reviewing and commissioning such services.

Health: Republic of Ireland

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government further to the Written Answer by Baroness Thornton on 10 February (*WA 151–2*), whether they will publish the agreement reached with the Republic of Ireland on the closure of the 2003–06 European Union healthcare costs account and the settlement for 2007–09; whether it differs from the United Kingdom's arrangements with other European Union countries; and how payments will be calculated for 2010 and future years until new arrangements are in place. [HL2491]

The Parliamentary Under-Secretary of State, Department of Health (Baroness Thornton): The United Kingdom has many different bilateral arrangements with European Union countries and there is no uniform approach.

To reach agreement with Ireland for the years 2003-06, the United Kingdom made a further and final payment of €100 million.

For years 2007-09, the UK agreed to accept liability for 40 per cent of the pensioner caseload, a reduction on previous years. For future years, both Governments are looking into the feasibility of introducing a pensioner registration scheme.

House of Lords: Sittings

Question

Asked by ***Lord Campbell-Savours***

To ask the Chairman of Committees what estimate has been made of the additional costs of the provision of services to Members of the House of Lords arising out of any sittings of the House of Lords in August or September 2010. [HL2801]

The Chairman of Committees (Lord Brabazon of Tara): No such estimate has been made. The most significant additional costs would be related to opening refreshment outlets which would otherwise be closed, together with security costs and possible staff overtime.

Houses of Parliament: Illegal Staff

Question

Asked by ***Baroness Warsi***

To ask Her Majesty's Government how many reports they have received of people working illegally on the Parliamentary Estate. [HL2286]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): In the last two years the United Kingdom Border Agency has received one report regarding a person working illegally on the Parliamentary Estate. This was received in April 2008.

Human Rights

Question

Asked by ***Lord Lester of Herne Hill***

To ask Her Majesty's Government what is their response to the view expressed by the Committee of Ministers of the Council of Europe in the Interim Resolution on 4 March urging the Government "to rapidly adopt measures, of even an interim nature," to comply with the judgment of the European Court of Human Rights in Hirst (No 2) before the general election. [HL2650]

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): The Government acknowledge the concerns expressed by the Committee of Ministers of the Council of Europe in the Interim Resolution on 4 March.

The Government remain committed to implementing the decision of the European Court of Human Rights in Hirst v UK (No 2). However, the judgment does not have the effect of striking down the national law to which it relates. It is for Parliament to translate the obligations into domestic law. Until that point Section 3 of the Representation of the People Act 1983 remains in force.

Immigration: Deportation

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government further to the Written Answer by Lord West of Spithead on 24 February (HL2012), how many complaints received by the UK Border Agency concerning excessive force used by contractors in removing people from the United Kingdom have been upheld in each of the last five years; and what consequent action they took in respect of (a) companies, and (b) individuals. [HL2310]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): Data on complaints is available from February 2008. Local records show that two complaints received by the UK Border Agency concerning alleged excessive force used by contractors in removing people from the United Kingdom were upheld in 2008, and two in 2009.

In three of the upheld complaints, the accreditation of the custody officers was revoked. In the fourth complaint, the recommendation was accepted to provide coaching to the officer concerned.

Israel

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government whether they will instigate through the European Union and the Middle East quartet a review of the trade agreement with Israel, following recent developments there. [HL2796]

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): The EU regularly takes stock of its association agreement with Israel during regular EU/Israel Association Councils. The EU Foreign Affairs Council last reaffirmed the importance of the EU's relationship with Israel on 8 December 2009. The Foreign Affairs Council also reiterated its position on upgrading this relationship, which is that any upgrade must be set against the context of our shared interests and objectives, including progress on the Middle East peace process. My right honourable friend the Foreign Secretary made this clear during his meeting with his counterpart Avigdor Lieberman on 22 February 2010.

Israel and Palestine

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government what representations they have made to the Government of Israel about the effects on the health, education, work, and social and religious life of the Palestinian population of the present position of the West Bank barrier and those caused by 578 closure obstacles (as reported by the United Nations Office for the Co-ordination of Humanitarian Affairs); and what responses they have received. [HL2644]

Lord Brett: There has been some progress on Palestinian social and economic development in the West Bank as a result of the Palestinian Authority's efforts to reform its institutions and build a stable economy. And we welcome moves by the Israeli Government to reduce the number of roadblocks and checkpoints, which has also been a contributing factor.

However, we still remain concerned that the number of obstacles and the route of the Israeli security barrier continues to have a detrimental impact on socio-economic conditions and bring unnecessary suffering to ordinary Palestinians. It also undermines the territorial contiguity of the West Bank, reducing the viability of a future Palestinian state.

We continue to press the Israeli Government to reduce the number of checkpoints and ensure the barrier does not stand on occupied land.

Legal Aid

Questions

Asked by ***Lord McColl of Dulwich***

To ask Her Majesty's Government what assessment they have made of any purported ethical approval for the blood tests to detect the presence of the measles virus carried out on the claimants and controls in research funded by legal aid in connection with the measles, mumps and rubella/measles and rubella vaccine litigation. [HL2676]

The Parliamentary Under-Secretary of State, Department of Health (Baroness Thornton): We understand that the tests in question were carried out as part of now concluded litigation that followed claims that the measles, mumps and rubella (MMR) vaccine was linked to autism. It appears that the tests were organised by the legal teams involved and the department played no part in these arrangements.

Asked by ***Lord McColl of Dulwich***

To ask Her Majesty's Government what assessment they have made of any purported ethical approval and clinical indication for lumbar punctures funded by legal aid performed on the claimants in connection with the measles, mumps and rubella/measles and rubella vaccine litigation. [HL2677]

Baroness Thornton: We understand that the tests in question were carried out as part of now concluded litigation that followed claims that the measles, mumps and rubella (MMR) vaccine was linked to autism. It appears that the tests were organised by the legal teams involved and the department played no part in these arrangements.

National Identity Register

Question

Asked by ***Lord Bates***

To ask Her Majesty's Government what guidance has been given to contractors working on or maintaining the National Identity Register on whether staff are permitted to engage in industrial action without breaching Section 29(3) of the Identity Cards Act 2006. [HL2625]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): No direct guidance has been given to contractors in relation to their staff working on or maintaining the National Identity Register in respect to their staff withdrawing their labour in the case of a lawful industrial action. Provisions exist within the contract arrangements to ensure continuity of service in the event of any lawful industrial action.

National Insurance

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government which are the 20 countries whose nationals have been issued most national insurance numbers since 2002; and how many numbers have been issued to all foreign nationals since 2002. [HL2488]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): The available information is in the tables.

National Insurance Number registrations to adult overseas nationals entering the UK since 1 January 2002—Top 20 countries of origin

Poland
India
Pakistan
Australia
France
Slovak Rep
South Africa
Rep of Lithuania
China Peoples Rep
Germany
Italy
Portugal
Spain
Nigeria
Rep of Ireland
Philippines
Romania
USA
Bangladesh
Rep of Latvia

National Insurance Number Registrations to Adult Overseas Nationals entering the UK since 1 January 2002—All registrations

	Number of National Insurance registrations
All nationalities	4,285,130

Notes:

1. Figures are rounded to the nearest 10.
2. Some additional disclosure control has been applied.
3. A very small proportion on national insurance number registrations are to overseas nationals registering whilst abroad.
4. Data is cumulative from 1 January 2002.
5. Registration date is derived from the date at which a national insurance number is maintained on the National Insurance Recording System.
6. This information is available on the Department for Work and Pensions website at http://research.dwp.gov.uk/asd/

Source:
100% extract from National Insurance Recording System

National Offender Management Information System

Question

Asked by ***Lord Avebury***

To ask Her Majesty's Government what is the estimated cost of the P-NOMIS offender management database; why Gypsy, Roma and Travellers are not identified as an ethnic category recorded therein; and when they will be. [HL2651]

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): The one-off cost of the complete Prison-NOMIS case management system is estimated at £250 million. This system includes a centralised offender management database. The cost of the database is not separately identified in the way in which this system is being procured.

The requirement to capture an additional value for Offender Ethnicity of Gypsy, Roma and Travellers was not in the original system specification but will be captured in a future release of Prison-NOMIS.

Changes of this type need to be made not only to systems but also at the same time to policies and procedures. In addition, the change cannot immediately be implemented as the requirement to capture, record and monitor ethnicity does not only apply to the Prison Service and offenders they manage, but also to all agencies in the wider justice community, as well as staff and victims.

Within each agency, tools and guidance are provided to assist the capture of this information. Within the justice community, it was agreed to use the census categories as the standards for ethnicity.

As the census categories are changing in 2011 to update the ethnicity standards to include a new type of Gypsy, Roma and Travellers, a change request is now with the Ministry of Justice Data Standards Forum to consider the impact of the change on the Cross Criminal Justice System Data Standards.

This request will ensure that the change is implemented in an appropriate and timely manner across the justice agencies, without jeopardising existing interfaces and information sharing agreements. A timescale for this change has not been agreed yet.

NHS: Expenditure

Questions

Asked by ***Lord Warner***

To ask Her Majesty's Government how many major hospital capital schemes costing more than £500,000 were started and completed in England in each year since 1997–98 in (a) acute hospitals, and (b) psychiatric hospitals; how many of those were private finance initiative schemes; how many were in London; and what the total expenditure on those projects was in each financial year since 1997–98 in (1) London, and (2) the rest of England. [HL2510]

To ask Her Majesty's Government how many NHS Local Improvement Finance Trust projects in England were (a) started, and (b) completed, in each year since 1997–98 in (1) London, and (2) the rest of England; and what the total expenditure on those projects in each year was in (i) London, and (ii) the rest of England. [HL2511]

To ask Her Majesty's Government how many community hospital capital schemes costing more than £250,000 were (a) started, and (b) completed, in (1) London, and (2) the rest of England, in each financial year since 1997–98; and what the total expenditure was on those projects in each financial year in (i) London, and (ii) the rest of England. [HL2512]

To ask Her Majesty's Government how many capital schemes costing more than £250,000 were (a) started, and (b) completed, in each financial year since 1997–98 in (1) London, and (2) the rest of England; and what the total expenditure was on such projects in each financial year in (i) London, and (ii) the rest of England. [HL2513]

The Parliamentary Under-Secretary of State, Department of Health (Baroness Thornton): Three marked lists have been placed in the Library with the following information:

List 1—this contains the number of started and completed acute, mental health and community hospital private finance initiative (PFI) schemes for each year since 1997-98, shown by London and non-London location and the annual expenditure for those areas. Expenditure is shown as the annual estimated unitary payments paid under the PFI contracts (which covers initial capital cost, financing charges and building maintenance and other support services over the lifetime of the contract). Information is only held centrally on PFI schemes with a capital value of £10 million and above; there were a number of schemes below this threshold, which completed in the period 1997-98 to 2003-04.

List 2—this contains three tables:

Table 1 and 2—the number of completed acute and mental health non-PFI schemes (ie using public capital) for each year since 2003, shown by London and non-London location and the capital costs for those areas (information is not held centrally on the associated financing costs (ie capital charges) and ongoing support services for each scheme). The schemes are broken down in to the bands by capital cost requested (more than £250,000; between 250,000 and £500,000; and more than £500,000). Information is not held centrally on retrospective start dates for these schemes; we are only able to show those currently under construction. These schemes were all taken forward under the "Procure 21" initiative, which the department introduced in 2003 for public capital funded schemes; information on earlier public capital schemes since 1997-98 is only held for those over £10 million—this is shown in table 2.

Table 3—this shows the non-PFI funded community hospitals (ie using public capital) which have been completed and are on site under the P21 initiative; the great majority (13 of the 15 listed) are a result of the Community Hospitals Programme. This was developed as a result of the commitment included in *Our health, our care, our community: investing in community hospitals and services*, which announced that capital funding was available from 2006-07 to 2010-11 to support investment in community hospitals and facilities. A further four schemes under the programme are being funded via the National Health Service Local Improvement Finance Trust (LIFT) initiative and are included in list 3.

List 3—this contains the number of started and completed acute, mental health and community hospital NHS LIFT schemes for each year since 1997-98, shown by London and non-London location and the annual expenditure for those areas. Expenditure is shown as the annual estimated lease payments under the PFI contracts (which covers initial capital cost, financing charges and building maintenance). Information is not held centrally on retrospective start dates for these schemes; we are only able to show those currently under construction.

NHS: Medical Records

Question

Asked by ***Lord Rea***

To ask Her Majesty's Government what action is being taken to ensure that primary care trusts and GP practices are prepared and supported prior to and during the introduction of Summary Care Records. [HL2603]

The Parliamentary Under-Secretary of State, Department of Health (Baroness Thornton): The department has produced a range of guidance, materials and other resources to facilitate communicating the introduction of summary care records (SCRs) to National Health Service staff and patients.

A toolkit has been provided to primary care trusts (PCTs) to support their local stakeholder engagement and public information programmes, and each strategic health authority has a nominated SCR implementation lead available to advise and support PCTs.

For general practitioner (GP) practices, a SCR awareness pack has been made available, and many PCTs are supplementing this with additional local information and GP practice awareness sessions. Before they are expected to create SCRs for patients, GP practices will receive appropriate training and software upgrades.

Patients can order additional information free of charge from a central point, or can contact a dedicated national NHS care record service telephone information line.

NHS: Service Providers

Questions

Asked by ***Lord Warner***

To ask Her Majesty's Government what requirements ministers at the Department of Health will place on primary care trusts in the east of England before they tender with the independent sector for the provision of their community services; and when the department will issue new guidance on that issue. [HL2707]

The Parliamentary Under-Secretary of State, Department of Health (Baroness Thornton): All primary care trusts (PCTs), including those in the east of England are required to review their plans for future provision of community services under a new assurance and approval process, as set out in guidance published on 5 February 2010[1].

Where a PCT preferred option does not pass the assurance tests, the PCT will be required by its strategic health authority (SHA) to review its proposals and

resubmit to the SHA, normally within two months. If the revised proposal(s) still do not pass the tests in this guidance, the PCT will be expected to consider a wider range of options, if not previously considered. This should include the open competitive tendering of appropriate services.

Note:
[1] Transforming Community Services: The assurance and approvals process for PCT-provided community services (Department of Health, February 2010)

Asked by ***Lord Warner***

To ask Her Majesty's Government whether they will publish the initial findings of the Co-operation and Competition Panel's review of the processes of the Great Yarmouth and Waveney Primary Care Trust for tendering their community services. [HL2708]

Baroness Thornton: It is a matter for the Co-operation and Competition Panel to determine how it reports any findings from its investigations.

Asked by ***Lord Birt***

To ask Her Majesty's Government whether Great Yarmouth and Waveney Primary Care Trust's decision to reverse its decision to tender openly for community services was compliant with the Department of Health's Principles and Rules for Co-operation and Competition. [HL2761]

Baroness Thornton: The department has not undertaken any assessment of this case.

It is the responsibility of primary care trust boards to ensure that their procurement is compliant with the Principles and Rules for Co-operation and Competition which can be found at www.dh.gov.uk/en/Publications andstatistics/Publications/PublicationsPolicyAnd Guidance/DH_081098.

A copy has also been placed in the Library.

Northern Ireland: Racism

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government further to the Written Answer by Baroness Royall of Blaisdon on 2 December 2009 (*WA 55*) and the letter from the Acting Director of Public Prosecutions in Northern Ireland dated 11 February 2010 (deposited in the Library of the House as paper DEP2010/0497), why the decision to prosecute two individuals for criminal damage to the City Church was reversed on the grounds of their age and previous good behaviour. [HL2758]

Baroness Royall of Blaisdon: This is an operational matter for the Acting Director of Public Prosecutions. I have asked him to reply directly to the noble Lord and will arrange for a copy of the letter to be placed in the Library of the House.

Palestine

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government what were the conclusions of the assessment by the EU Police Mission in the Palestinian Territories (EUPOL COPPS) of the criminal justice system run by the Palestinian Authority; and how the EU is providing support or training for the Palestinian prison service. [HL2700]

Lord Brett: The assessment report concluded that improvement is needed in all areas; in prosecution for example more than 60 per cent of the prosecutors are inexperienced, have been employed in the past year and still need additional basic training and supervision. In the courts the non-appearance of accused and witnesses results in numerous adjournments that contribute to the build-up of pending cases. In the penitentiary there is a lack of resources committed to rehabilitating and resocialising prisoners, and a serious lack of rules and regulations governing the running of detention facilities.

The report led to an Action Plan for EU Police Mission for the Palestinian Territories (EUPOL COPPS) Rule of Law section in partnership with Palestinian stakeholders and in co-ordination with international actors. EUPOL COPPS has two penitentiary experts providing technical advice to the UN Office of Drugs and Crime Palestinian prison reform programme, which is funded by the Government of Canada. It also takes a co-ordinating role within the wider donor community bringing together the Dutch programme to refurbish seven West Bank detention centres and to build a new prison in Jericho, the European Community project to build a new prison in Nablus and the three-year programme to provide prison training and equipment, which is being funded by the US International Narcotics and Law Enforcement Agency.

Panama: UK Ambassador

Question

Asked by ***Lord Stevens of Ludgate***

To ask Her Majesty's Government why Her Majesty's ambassador in Panama required a new residence; what was the cost of the new residence; what was the cost of the opening ceremony for it, including travel; and whether a European Union embassy is being opened in Panama. [HL2487]

Lord Brett: In January 2009, the Foreign and Commonwealth Office's Investment Committee approved the purchase of a new residence for our ambassador in Panama. The former residence was no longer fit for purpose and required a major refurbishment, estimated at £1.4 million. The construction of high rise developments in the immediate surrounding area and the planned widening of a highway in front of the property created serious ongoing operational disruption, a loss of privacy and had security implications.

The new residence, which will enable savings on future running costs, was purchased in March 2009 for £2,001,826.

The residence opening ceremony was performed by His Royal Highness The Duke of York, during a pre-planned official visit to Panama, in his capacity as the UK Special Representative for International Trade and Investment. The ceremony was combined with an official reception in honour of His Royal Highness, attended by a wide range of local business, political and key contacts at a total cost of £3,766. Therefore there were no associated travel costs, because His Royal Highness was already in Panama on pre-scheduled UK Trade and Investment business.

We have contacted the European Commission which informs us that it currently has no plan to upgrade the small European Union projects office in Panama.

Parking Fines

Questions

Asked by ***Lord Bradley***

To ask Her Majesty's Government whether private parking companies are required to display a person's right of appeal on the face of a parking penalty notice. [HL2716]

The Secretary of State for Transport (Lord Adonis): A private landowner is entitled to decide the terms and conditions on which his or her land is available for parking. Having decided on the terms and conditions of use, a landowner is also entitled to take action to enforce them, as long as that enforcement does not break any laws.

There is no specific legal requirement for the landowner to tell the motorist how a complaint may be made.

Asked by ***Lord Lucas***

To ask Her Majesty's Government whether they will encourage councils responsible for the civil enforcement of traffic violations to publish on their websites (a) their parking and traffic management policy, (b) their enforcement policy, (c) their enforcement targets and progress in achieving them, and (d) their performance indicators for their parking management and progress in achieving them. [HL2807]

To ask Her Majesty's Government whether they will encourage councils responsible for the civil enforcement of traffic violations to publish on their websites the number of civil enforcement officers they employ. [HL2808]

To ask Her Majesty's Government whether they will encourage councils responsible for the civil enforcement of traffic violations to publish on their websites the information they supply to the Home Office and the Department for Transport. [HL2809]

To ask Her Majesty's Government whether they will encourage councils responsible for the civil enforcement of traffic violations to publish on their websites (a) how they use income from on-street parking charges and enforcement measures, and (b) details of any projects they intend to fund with surplus income. [HL2810]

Lord Adonis: The statutory guidance to local authorities on the civil enforcement of parking contraventions (February 2008) says that enforcement authorities should publish an annual report about their enforcement activities, covering at least the financial, statistical and other data (including any parking or civil parking enforcement targets) set out in that guidance. Chapter 4 of the Department's Operational Guidance to local authorities on Parking Policy and Enforcement (March 2008) contains further recommendations, including the recommendation that annual reports are published on the authority's website. Collectively, these guidance documents already encourage local authorities to publicise extensive details of their civil parking enforcement activities including the specified information.

Asked by ***Lord Lucas***

To ask Her Majesty's Government whether they will encourage councils responsible for the civil enforcement of traffic violations to publish on their websites a map of all their parking restrictions. [HL2811]

To ask Her Majesty's Government whether they will encourage councils responsible for the civil enforcement of traffic violations to publish on their websites their Traffic Regulation Orders. [HL2812]

Lord Adonis: Procedural requirements for Traffic Regulation Orders are set out in the Road Traffic (Temporary Restrictions) Procedure Regulations 1992 (SI 1992/1215) and the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 (SI 1996/2489). There are no requirements for the publication of Traffic Regulation Orders or maps of parking restrictions on websites.

Traffic Regulation Order procedures are being reconsidered as part of the Department for Transport's Traffic Signs Policy Review. We expect the review will lead in due course to updated and improved legislative arrangements and guidance that reflect best practice, including best use of information technology.

Police: Northern Ireland

Question

Asked by ***Lord Kilclooney***

To ask Her Majesty's Government how many full-time regular officers in the Police Service of Northern Ireland (PSNI) are former officers of An Garda Síochána who joined the PSNI under the lateral entry procedure. [HL2697]

Baroness Royall of Blaisdon: No former officers of An Garda Síochána have joined the Police Service of Northern Ireland (PSNI) under the lateral entry procedure.

Political Parties: Funding

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government whether they will review options for funding United Kingdom political parties from public funds and disallowing overseas donations. [HL2691]

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): The Government do not believe that there is currently public support for an increase in state funding of political parties.

With regard to overseas donations, the Political Parties, Elections and Referendums Act 2000 prevents individuals who are not registered in a UK electoral register or UK-registered companies which do not carry on business here from giving donations to political parties registered in Great Britain. Additionally, the Government recently legislated in the Political Parties and Elections Act 2009 to require individual donors to confirm, when making a donation, that they are resident, ordinarily resident and domiciled in the United Kingdom for income tax purposes. This provision has not yet been commenced. Ministers made clear during debates at the time that it would not be commenced before the summer of 2010.

Powers of Entry etc. Bill [HL]

Questions

Asked by ***Lord Selsdon***

To ask Her Majesty's Government further to the Written Answer by Lord West of Spithead on 14 November 2007 (*WA 25*), under which Acts and secondary legislation listed in the Schedule to the Powers of Entry etc. Bill [HL] officials of the Department for Business, Innovation and Skills and of public or private bodies answerable to the Secretary of State for Business, Innovation and Skills or otherwise exercising powers of entry can enter and search the homes or business premises of United Kingdom citizens. [HL2605]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Lord Young of Norwood Green): Of the Acts and secondary legislation listed in the Schedule to the Powers of Entry etc. Bill [HL] the Department for Business, Innovation and skills is responsible for 23 Acts containing 60 powers of entry and 34 statutory instruments containing 60 powers of entry as set out below:

Primary Year	*Statute*	*No. of powers*	*Repealed*
1996	Arbitration Act	1	
1974	Biological Weapons Act 1974	1	
1990	Broadcasting Act 1990	2	
1996	Broadcasting Act 1996	1	
1996	Chemical Weapons Act 1996	8	
2003	Communications Act 2003	1	
1985	Companies Act 1985	2	
1998	Competition Act 1998	9	
1990	Computer Misuse Act 1990	1	
1974	Consumer Credit Act 1974	3	
1987	Consumer Protection Act 1987	2	
1988	Copyright, Designs and Patents Act 1988	5	
1973	Employment Agencies Act 1973	1	
2002	Enterprise Act 2002	3	
1979	Estate Agents Act 1979	1	
1973	Fair Trading Act 1973	0	2
2000	Postal Services Act 2000	4	
1998	Regional Development Agencies Act 1998	3	
1994	Sunday Trading Act 1994	1	
1984	Telecommunications Act 1984	1	
1968	Trade Descriptions Act 1968	2	
1994	Trade Marks Act 1994	1	
1939	Trading with the Enemy Act 1939	1	
1985	Weights and Measures Act	2	
2006	Wireless Telegraphy Act 2006	2	

Secondary Year	*SI number*	*Authority*	*Title*	*Powers Revoked*	
1977	1140	European Communities Act 1972	Aerosol Dispensers (EEC Requirements) Regulations 1977	2	2
1977	1753	European Communities Act 1972	Alcoholometers and Alcohol Hydrometers (EEC Requirements) Regulations 1977	2	
2008	1276	European Communities Act 1972	Business Protection from Misleading Marketing Regulations 2008 [2008/1276]	2	
1975	2125	European Communities Act 1972	Calibration of Tanks and Vessels (EEC Requirements) Regulations 1975	2	
2008	1277	European Communities Act 1972	Consumer Protection from Unfair Trading Regulations 2008. [2008/1277] [C]	2	
2005	263	European Communities Act 1972	End-of-Life Vehicles (Producer Responsibility) Regulations 2005	2	
2006	3418	European Communities Act 1972	Electromagnetic Compatibility Regulations	1	
2005	1803	European Communities Act 1972	General Product Safety Regulations	1	

Secondary Year	SI number	Authority	Title	Powers Revoked	
1977	932	European Communities Act 1972	Measuring Container Bottles (EEC Requirements) Regulations 1977	2	
2006	1679	European Communities Act 1972	Measuring Instruments (Active Electrical Energy Meters) Regulations 2006	2	
1988	186	European Communities Act 1972	Measuring Instruments (EEC Requirements) Regulations 1988	2	
2006	2647	European Communities Act 1972	Measuring Instruments (Gas Meters) Regulations 2006	2	
2009	2194	European Communities Act 1972	Motor Vehicles (Refilling of Air Conditioning Systems by Service Providers) Regulations [2009/2194] Motor Vehicles (Refilling of Air Conditioning Systems by Service Providers) Regulations [2009/2194]	2	
2009	1899	European Communities Act 1972	Motor Vehicles (Replacement Catalytic Converters and Pollution Control Devices) Regulations 2009 [2009/1899]	2	
2001	1701	European Communities Act 1972	Noise Emission in the Environment by Equipment for use Outdoors Regulations 2001 [2001/1701]	2	
2000	3236	European Communities Act 1972	Non-automatic Weighing Instruments Regulations 2000	2	
1992	3288	European Communities Act 1972	Package Travel, Package Holidays and Package Tours Regulations 1992	2	
2000	730	European Communities Act 1972	Radio Equipment and Telecommunications Terminal Equipment Regulations 2000	2	
2008	37	European Communities Act 1972	Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2008	1	
1979	1379	European Communities Act 1972	Taximeters (EEC Requirements) Regulations 1979	2	
2006	3289	European Communities Act 1972	Waste Electrical and Electronic Equipment Regulations 2006	2	
1998	1833	European Communities Act 1972	Working Time Regulations 1998	1	
2003	2765	Export Control Act 2002	Trade in Goods (Control) Order 2003	1	1
1996	2535	Gas Act 1986	Gas Safety (Rights of Entry) Regulations 1996	2	
1996	551	Health & Safety at Work etc. Act 1974	Gas Safety (Management) Regulations 1996	3	
2006	1257	Weights and Measures Act 1985/ European Communities Act 1972	Measuring Instruments (Automatic Catchweighers) Regulations 2006	2	
2006	1255	Weights and Measures Act 1985/ European Communities Act 1972	Measuring Instruments (Automatic Discontinuous Totalisers) Regulations 2006	2	
2006	1258	Weights and Measures Act 1985/ European Communities Act 1972	Measuring Instruments (Automatic Gravimetric Filling Instruments) Regulations 2006	2	
2006	1256	Weights and Measures Act 1985/ European Communities Act 1972	Measuring Instruments (Automatic Rail-weighbridges) Regulations 2006	2	
2006	1259	Weights and Measures Act 1985/ European Communities Act 1972	Measuring Instruments (Beltweighers) Regulations 2006	2	
2006	1264	Weights and Measures Act 1985/ European Communities Act 1972	Measuring Instruments (Capacity Serving Measures) Regulations 2006	2	
2006	1268	Weights and Measures Act 1985/ European Communities Act 1972	Measuring Instruments (Cold-water Meters) Regulations 2006	2	
2006	1266	Weights and Measures Act 1985/ European Communities Act 1972	Measuring Instruments (Liquid Fuel and Lubricants) Regulations 2006	2	
2006	1269	Weights and Measures Act 1985/ European Communities Act 1972	Measuring Instruments (Liquid Fuel delivered from Road Tankers) Regulations 2006	2	
2006	1267	Weights and Measures Act 1985/ European Communities Act 1972	Measuring Instruments (Material Measures of Length) Regulations 2006	2	
2006	659	Weights and Measures Act 1985/ European Communities Act 1972	Weights and Measures (Packaged Goods) Regulations 2006	2	

Asked by ***Lord Selsdon***

To ask Her Majesty's Government further to the Written Answer by Lord West of Spithead on 14 November 2007 (*WA 25*), under which Acts and secondary legislation listed in the Schedule to the Powers of Entry etc. Bill [HL] officials of the Department for Children, Schools and Families and of public or private bodies answerable to the Secretary of State for Children, Schools and Families or otherwise exercising powers of entry can enter and search the homes or business premises of United Kingdom citizens. [HL2630]

The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin): The Department for Children, Schools and Families has enacted 31 powers of entry through nine Acts and four powers of entry through four statutory instruments as set out below.

Primary *Year*	*Statute*	*Department responsible*	*No. of powers*
2002	Adoption and Children Act 2002	DCSF	2
2006	Childcare Act 2006	DCSF	5
1989	Children Act 1989	DCSF	12
2004	Children Act 2004	DCSF	2
1955	Children and Young Persons (Harmful Publications) Act 1955	DCSF/MoJ	1
1933	Children and Young Persons Act 1933	DCSF	3
1997	Education Act 1997	DCSF	1
2006	Education and Inspections Act 2006	DCSF	3
1988	Education Reform Act 1988	DCSF	2
		9	31

Secondary *Year*	*SI. No*	*Authority*	*Title*	*Dept*	*No of Powers*
2007	1772	Childcare Act 2006	Early Years Foundation Stage (Learning and Development Requirements) Order 2007	DCSF	1
2004	2783	Education Act 2002	Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2004	DCSF	1
2003	1038	Education Act 2002	Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) Order 2003	DCSF	1
2003	1039	Education Act 2002	Education (National Curriculum) (Key Stage 3 Assessment Arrangements) (England) Order 2003	DCSF	1
				4	4

Asked by ***Lord Selsdon***

To ask Her Majesty's Government further to the Written Answer by Lord West of Spithead on 14 November 2007 (*WA 25*), under which Acts and secondary legislation listed in the Schedule to the Powers of Entry etc. Bill [HL] officials of the Department of Energy and Climate Change and of public or private bodies answerable to the Secretary of State for Energy and Climate Change or otherwise exercising powers of entry can enter and search the homes or business premises of United Kingdom citizens. [HL2632]

The Minister of State, Department of Energy and Climate Change (Lord Hunt of Kings Heath): Such powers of entry and search (or inspection) arise under the following legislation listed in the Schedule to the Bill:

Biological Weapons Act 1974;

Electricity Act 1989;

Energy Act 1976;

Gas Act 1965;

Gas Act 1986;

Nuclear Safeguards Act 2000;

Pipe-lines Act 1962;

Rights of Entry (Gas and Electricity Boards) Act 1954 (read with the Gas Acts 1965 and 1986 and Electricity Act 1989); and

Gas Safety (Rights of Entry) Regulations 1996.

Prisoners: Voting

Questions

Asked by ***Lord Lester of Herne Hill***

To ask Her Majesty's Government what is their response to the view expressed by the Committee of Ministers of the Council of Europe in the Interim

Resolution of 3 December 2009 that the delay in implementing the Hirst judgment has given rise to a risk that the next general election will be conducted in a way that does not comply with the European Convention on Human Rights. [HL2569]

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): The Government acknowledge the concerns raised by the Committee of Ministers in its Interim Resolution of 3 December 2009 and in its decision of 2 to 4 March. The Government are currently considering the most appropriate way forward in the light of the responses to the second stage consultation.

The Government remain committed to implementing the decision of the European Court of Human Rights in Hirst v UK (No 2). However, the judgment does not have the effect of striking down the national law to which it relates. It is for Parliament to translate the obligations into domestic law. Until that point Section 3 of the Representation of the People Act 1983 remains in force.

Asked by ***Lord Lester of Herne Hill***

To ask Her Majesty's Government whether the Electoral Commission has suggested to them that prisoners could be enfranchised through a system of postal voting or proxy voting involving a modification to the existing declaration of local connection in electoral law. [HL2571]

Lord Bach: The Electoral Commission's response to the Government's second stage consultation on prisoners' voting rights, is available on the commission's website at http://www.electoralcommission.org.uk/search?isadvanced=false&form=simple&daat=on&query=prisoner+voting+rights.

Railways: Gatwick Express

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government what representations they have made to Southern Railway about the quality of the stock on the Gatwick Express. [HL2873]

The Secretary of State for Transport (Lord Adonis): Her Majesty's Government have specified the level of rail service, including service quality and timings in the South Central rail franchise which commenced on 20 September 2009.

The requirements include maintaining the 15 minute non-stop service between London Victoria and Gatwick Airport, on board catering at appropriate times and new service quality targets.

The rolling stock to be deployed on the Gatwick Express services is a matter for the train operating company as long as it meets minimum standards such as luggage space and multilingual announcements.

Rural Areas: Telephones

Question

Asked by ***Lord Taylor of Holbeach***

To ask Her Majesty's Government whether any decision to end the ability to pay by cheque will be contingent upon the provision of a telephone to every rural dwelling in the country. [HL2410]

The Financial Services Secretary to the Treasury (Lord Myners): The closure of Cheque and Credit Clearing, the UK system that processes cheques, is a commercial decision for industry, which will ultimately be taken by the Payments Council.

The Payments Council, which has an independent chair and four independent directors who represent consumer and business interests, is the body that sets the strategy for UK payments. It is funded by its membership, which consists of banks and other payment service providers.

The decision-making Board of the Council comprises of 15 voting seats (11 of which represent industry, and four of which are independent, representing the interests of consumers and businesses). Each seat on the board has one vote, although the four independent directors can block a vote if they all vote together.

The 16 board members of the Payments Council are:

an independent chairman—the Payments Council is in process of appointing anew Chairman;

four independent directors:

Professor Martin Cave (acting interim chairman);

Michael Alexander;

Moira Black; and

Stephen Locke;

11 industry directors whose organisations are members of the Payments Council and are elected to serve terms ranging from one to three years:

Brent Bellm, vice president and managing director, PayPal Europe;

Maurice Cleaves, managing director, Deutsche Bank;

Ron Kalifa, head of product management, Royal Bank of Scotland;

John Hughes, director, retail banking, Co-operative Bank;

Colin Painter, payments industry director, Service Delivery, HSBC Bank Plc;

Neil Lover, head of payments strategy, Nationwide Building Society;

Dermot Nolan, head of payments strategy and change, Bank of Ireland;

Juan Olaizola, executive director of Manufacturing, Santander;

Kevin Page, operations director, Clydesdale and Yorkshire Banks;

Russell Saunders, payments and business services director, Lloyds Banking Group; and

the Barclays representative yet to be confirmed.

Further to the board members Paul Smee, chief executive, Payments Council and Andrew Bailey, executive director and chief cashier, Bank of England sit as observers on the board.

The Government, however, recognise that certain groups still value cheques as an important method of payment.

Before taking a final decision in 2016, and ahead of a closure of the cheque clearing system, the council is committed to ensuring that adequate alternatives are in place for and are being used by all users of cheques, in particular those users who are currently still highly dependent on this method of payment,

Shipping: General Lighthouse Authorities

Questions

Asked by ***Lord Berkeley***

To ask Her Majesty's Government further to the Written Answer by Lord Adonis on 1 March (*WA 332*), what assessment they have made of the work carried out by the Research and Radionavigation Directorate of the General Lighthouse Authorities of the United Kingdom and Ireland on the eLoran navigation system. [HL2667]

The Secretary of State for Transport (Lord Adonis): My department reviews the eLoran programme annually during the General Lighthouse Authorities' corporate planning round.

Asked by ***Lord Berkeley***

To ask Her Majesty's Government further to the Written Answer by Lord Adonis on 1 March (*WA 332*), what factors will determine the future funding of the Research and Radionavigation Directorate of the General Lighthouse Authorities of the United Kingdom and Ireland on the eLoran navigation system. [HL2668]

Lord Adonis: The relevant factors will include GNSS vulnerability and the associated risks, the need for a resilient positioning, navigation and timing system, and a full cost benefit analysis of the eLoran system.

Asked by ***Lord Berkeley***

To ask Her Majesty's Government further to the Written Answer by Lord Adonis on 1 March (*WA 332*), what programme milestones have been achieved by the Research and Radionavigation Directorate of the General Lighthouse Authorities of the United Kingdom and Ireland on the eLoran navigation system. [HL2669]

Lord Adonis: The Research and Radionavigation Directorate has achieved the following eLoran programme milestones:

contract award in May 2007;

first signal from Cumbria in October 2007 and service launch in January 2008; and

annual contract reviews

Asked by ***Lord Berkeley***

To ask Her Majesty's Government what discussions they have had with other interested parties on the eLoran navigation system. [HL2670]

Lord Adonis: My department and the General Lighthouse Authorities continue to identify and engage with other potential users of the system across government including those responsible for national security.

Asked by ***Lord Berkeley***

To ask Her Majesty's Government what loans for commercial purposes have been made available from the General Lighthouse Fund or Trinity House to Trinitas Services Ltd; what were the (a) dates, and (b) amounts of the loans; and what were the (1) dates, and (2) amounts, of any repayment of those loans. [HL2757]

Lord Adonis: Loans to Trinitas Services Ltd. have been made as follows:

Date advanced	*Amount of Loan £*	*Date repaid*	*Amount Repaid*
8 March 2002	300,000.00	31 March 2005	150,000.00
		13 September 2005	60,000.00
		16 February 2006	70,000.00
		31 March 2007	20,000.00
28 May 2002	140,000.00	9 May 2008	50,000.00
		3 February 2009	50,000.00
		31 March 2009	40,000.00
14 April 2003	60,000.00	31 March 2009	60,000.00
30 March 2007	100,000.00		zero

Transport: Buses

Question

Asked by ***Lord Roberts of Llandudno***

To ask Her Majesty's Government whether any buses carrying children to school were considered unsafe and taken off the road in (a) 1995, (b) 2000, (c) 2005, (d) 2006, (e) 2007, (f) 2008, and (g) 2009. [HL2778]

The Secretary of State for Transport (Lord Adonis): The Vehicle and Operator Services Agency does not maintain separate figures for checks on buses carrying children to school. The Vehicle and Operator Services Agency records compliance levels for buses under public service vehicles in it's effectiveness report, a copy of which is available from the Libraries of the House.

Transport: Heavy Goods Vehicles

Question

Asked by ***Lord Roberts of Llandudno***

To ask Her Majesty's Government how many people have been killed or seriously injured as a result of contact with heavy goods vehicles on the A55 since European Union regulations 1072/2009 and 1073/2009 came into effect. [HL2777]

The Secretary of State for Transport (Lord Adonis): The information requested is not yet available.

The regulations concerned came into effect in October 2009 and information concerning reported personal injury road accidents which occurred in 2009 will be available in late June 2010 following publication of Reported Road Casualties in Great Britain: Main Results: 2009.

Trees

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government what plans they have for a new long-term tree planting campaign, involving all United Kingdom households, similar to that in China. [HL2519]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham): In its 2009 Low Carbon Transition Plan the Government set out their intention to support a new drive to encourage private funding for woodland creation and are currently exploring all options for achieving that.

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