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Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
Con Ind	Conservative Independent
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Lab	Labour
Lab Ind	Labour Independent
LD	Liberal Democrat
LD Ind	Liberal Democrat Independent
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

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House of Lords

Tuesday, 4 February 2014.

2.30 pm

Prayers—read by the Lord Bishop of Wakefield.

Introduction: The Lord Bishop of Peterborough

2.37 pm

Donald Spargo, Lord Bishop of Peterborough, was introduced and took the oath, supported by the Bishop of Wakefield and the Bishop of Birmingham, and signed an undertaking to abide by the Code of Conduct.

Electoral Registration: National Voter Registration Day

Question

2.41 pm

Asked by ***Lord Roberts of Llandudno***

To ask Her Majesty's Government what steps they are taking to support National Voter Registration Day on Wednesday 5 February, which seeks to encourage new, especially young, people to register to vote.

Lord Wallace of Saltaire (LD): My Lords, the Government are committed to doing all they can to maximise registration, including among young people. The innovation project, which the Cabinet Office announced today that it will support, reinforces the aim of National Voter Registration Day. For example, the funding awarded to the Scottish Youth Parliament will help it to develop peer education training and outreach programmes to increase democratic engagement and registering to vote. The Government also fund UK Youth, which will help to develop online tools for engaging young people in the democratic process, including registering to vote.

Lord Roberts of Llandudno (LD): I thank the Minister for his Answer. I am sure that he will acknowledge, as I do, the dedication and the sometimes sacrificial commitment of a handful of youngsters, who are so concerned that only one in four young people votes in this country that they are having a National Voter Registration Day tomorrow, to try to encourage thousands more—hundreds of thousands, if possible—to register and become part of the democratic process here in the UK. Will the Minister consider evaluating whether what happens tomorrow, on the national registration day, could become an annual fixed event with full-scale government support?

Lord Wallace of Saltaire: My Lords, National Voter Registration Day is an independent initiative to which the Government give their full support, but it is not a governmental initiative. We are all aware, as we move towards individual elector registration and deal with the problems of underregistration, particularly among young people, that the Government cannot do it all on their own and do not have all the answers, so we enormously welcome the engagement of as many voluntary groups of this sort as possible.

Lord Wills (Lab): My Lords, the Minister will be aware of the success of the schools programme in Northern Ireland in increasing the numbers of young people who are registered to vote. Will the Government consider introducing that programme more widely?

Lord Wallace of Saltaire: My Lords, the noble Lord will be aware that Bite the Ballot has developed a schools programme, Rock Enrol!, which is now also on the gov.uk website. We are encouraging schools to play that with 16 and 17 year-olds. We are also encouraging schools to continue the citizenship education programme; there will be a new element of that for the national curriculum this September. We are all conscious that PSHE has never been quite as good as we all wanted it to be. However, it is there and we very much hope that schools will be taking this further.

Lord Elton (Con): My Lords, the Minister has just announced that there will be a substantial grant for this purpose through the Government of Scotland. How will he ensure that it is expended in a politically neutral way?

Lord Wallace of Saltaire: My Lords, once you support other bodies you can never be entirely sure that they will do exactly what it was that you wanted. There are five organisations for which the Government have today announced funding. In addition to those two which I have mentioned the Hansard Society, in partnership with Homeless Link, Gingerbread, which works with young people, single parents and social housing tenants, and Mencap, which works with people with learning disabilities, have also received grants.

The Lord Bishop of St Albans: My Lords, the Church of England is involved in the education of more than 1 million young people and we want to play our part in supporting this. Will Her Majesty's Government talk with the department to see if, in future, they will write not only to schools but to the 43 statutory diocesan boards of education, many of which employ full-time schools workers, and to dioceses? My diocese has an average of 30 to 40 full-time paid youth workers and many volunteer ones. We would be delighted to use our communication resources to support this sort of initiative.

Lord Wallace of Saltaire: My Lords, the Government recognise that they alone cannot do everything in this regard. We welcome conversations with all other organisations. I wondered whether the right reverend Prelate was going to promise that the Church of England would give sermons on the subject. Once, when I was a parliamentary candidate, I was taken by a young woman called Liz Barker—the noble Baroness, Lady Barker, as she is now—to the Methodist church

[Lord Wallace of Saltaire]
in which her father had been a minister. The sermon came as close as possible to suggesting that the congregation might like to vote for me.

Lord Howarth of Newport (Lab): My Lords, the Prince's Trust reported recently that more than three-quarters of a million young people in this country believe they have nothing to live for. How will the Minister seek to motivate those young people to engage with the formal processes of our democracy?

Lord Wallace of Saltaire: My Lords, that is a huge question which engages—or should engage—all of us in political parties and beyond. We recognise that alienation, of the younger generation in particular, from conventional politics is a problem which has developed over the last 25 years or more and it will take 25 years or more to reverse that trend. It will take a whole host of initiatives including, I suggest, some changes in our constitutional arrangements.

Lord Phillips of Sudbury (LD): My Lords, in light of the regime coming into effect in September, what will my noble friend the Minister do vis-à-vis free schools and academies, which do not have to teach citizenship at all? What will the Government do about the decline in teacher training in citizenship and the take-up of citizenship exams, given that this flies in the face of the ambitions of all of us that young people should vote?

Lord Wallace of Saltaire: My Lords, we are very conscious of the problems of teaching citizenship in schools. According to the School Workforce Census, there were nearly 9,000 citizenship teachers in publicly funded schools in England and Wales. I am going to duck the question of how far the national curriculum should be extended to free schools and academies.

Lord Patel of Bradford (Lab): My Lords, I welcome what the Minister said about grants to Mencap and Gingerbread because they target specific groups. However, what are the Government doing to target young people from ethnic minorities throughout the country?

Lord Wallace of Saltaire: My Lords, the noble Lord will know of Operation Black Vote, which has targeted people in that area. The statistics suggest that members of ethnic minorities are not as underregistered as some other target groups. However, young people of all groups are a problem and we all need to do as much as we can, locally and nationally, to cope with that.

Lord Geddes (Con): Is my noble friend aware of the valuable work done by the Lord Speaker's outreach programme in this context? I declare an interest as a member of that programme.

Lord Wallace of Saltaire: My Lords, I am well aware of that, and when I step down from this post I think that I might volunteer. I am not quite sure how people in our age group enthuse 16 year-olds to take part in the political process, but that is something that we will all have to deal with.

Georgia: Islamophobia

Question

2.49 pm

Asked by ***The Lord Bishop of Wakefield***

To ask Her Majesty's Government what representations they are making to the Government of Georgia regarding Islamophobia in that country; and what steps they are taking to ensure freedom of religion and the rights of minority groups there.

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): My Lords, the UK raises human rights issues on a regular basis with the Georgian Government, both bilaterally and through multilateral institutions such as the EU, the OSCE and the Council of Europe. We have not made any recent representations regarding Islamophobia, but we continue to follow minority rights closely, including through our embassy's work in Tbilisi and its regional travel. We fund a local NGO to maintain an inter-religion working group, which involves a variety of faith groups, including Muslims.

The Lord Bishop of Wakefield: My Lords, last year, I was fortunate to spend a couple of nights with a Muslim family in Batumi, and the next morning I met the president of the semi-autonomous region there, Mr Archil Khabadze. I pressed the question to him of why there was only one mosque for something like 110,000 out of the 150,000 people, that being the number of Muslims in the city. He said that at that time they would take immediate steps to find more land made available for Muslims in that city. I said that I would be coming back in the next three months to open the mosque with other religious groups. Would Her Majesty's Government please press the authorities to make sure that the local administration there is asked to fulfil the promise that they made; otherwise, these very open Muslims will soon become radicalised.

Baroness Warsi: The right reverend Prelate raises a really important issue. His Question prompted me to go away and do some research, and I was quite intrigued to find out that just over 10% of Georgia's population are indeed Muslim—a much larger percentage than in our own communities. The right reverend Prelate will be aware that one of the challenges in Georgia is that the Muslim community is not particularly well engaged politically and therefore does not really put its head above the parapet. I have become aware of low-level discrimination and tensions towards the Muslim community there, but as Georgia moves towards closer EU integration part of its requirement is to fulfil its obligation to bring in anti-discrimination laws.

Baroness Berridge (Con): My Lords, I declare an interest as the chair of the All-Party Parliamentary Group on International Religious Freedom. My noble friend the Minister also holds the brief for faith communities, so I would be grateful if she would outline whether the Government have actually had

meetings with and made representations to the Georgian Orthodox Church, which seems to have aligned itself very much with national identity there and seems to have a privileged position that is not extended to the Muslim, Jewish or Jehovah's Witness community there.

Baroness Warsi: I know that our embassy in Tbilisi is engaged with all religious organisations on the ground, but I am not sure whether it has had specific discussions on the rising concern about nationalism and Christianity being associated as the only form of Georgian identity. My noble friend makes an important point, and I shall certainly ensure that it is now put on the agenda.

Lord Harries of Pentregarth (CB): I wonder whether the Minister would allow a slight extension of the Question on the grounds that freedom is indivisible. Not only has Georgia been disfigured recently by actual violent hostility towards Muslims in some areas, but a gay rights demonstration was violently broken up with some connivance from the authorities. Would the Government continue gently to press the Georgian Government, with whom we have such good, close relations, by saying that the Europe that they aspire to join finds both Islamophobia and homophobia totally out of place and unacceptable?

Baroness Warsi: The noble and right reverend Lord makes an important point. Indeed, we raised concerns about the violence at the IDAHO rally in May of last year, for example. LGBT rights, along with the rights of religious minorities, are a cause for concern. They stem from the concern in parts of the Georgian Orthodox Church about a conflict of values—a conflict between Georgian values, which are laid out in a very orthodox way, and what they see as European values, and the kind of anti sentiment towards them.

Baroness Hussein-Ece (LD): My Lords, does my noble friend the Minister agree that this is part of a wider problem, not just in Georgia but in Moldova, Belarus and Russia, in that there is a lack of legislation that outlaws this type of inequality, and the ostracism of people from minority groups, which keeps them out of employment, education and political participation? The problem is not just in Georgia. Can my noble friend say what can be done to address it—and indeed homophobia—across the region in a more holistic way?

Baroness Warsi: This is one of the underlying themes of the Eastern Partnership. Georgia is one of six countries that are part of it. At the Vilnius conference at the end of last year there was a process of trying to encourage these countries to look towards Europe and go forward to signing association agreements, and deep and comprehensive fair trade agreements. This was all about trying to bring these countries to a place where the values that we hold dear become part of the norm. Our concern is that even where legislation is introduced it is not properly implemented. Sometimes legislation can have an alienating effect, as it had in Georgia when specific legislation passed in 2011 meant that Georgian Muslims were regulated by the Georgian Muslim department—which felt to the Muslim community there like a sad return to the Soviet era.

Lord Lea of Crondall (Lab): My Lords, when the right reverend Prelate asked his original Question, he referred to a conversation in Batumi and mentioned nationalism in the same breath as Orthodox Christianity versus Islam. How far does the Minister think that we are talking about an aspect of nationalism in one respect? These three Transcaucasian ex-Soviet republics have been independent only since 1989-90. Might this not be looked at as much in terms of nationalism as religion?

Baroness Warsi: Yes, my Lords. Unfortunately, Georgia is being presented by many politicians as a Christian country, and the identity and nationality that flow from that are causing some of this underlying tension.

Lord Willoughby de Broke (UKIP): This is an interesting question, but is not the brutal truth of the matter—

Noble Lords: Order.

West Lothian Question

Question

2.57 pm

Asked by ***Baroness Miller of Hendon***

To ask Her Majesty's Government whether they intend to take steps to resolve the West Lothian Question in the light of the impending grant of further taxation powers to the National Assembly for Wales and the forthcoming Scottish referendum.

Lord Wallace of Saltaire (LD): My Lords, the coalition's programme for government included a commitment to establish a commission to consider the West Lothian question. In January 2012 the Government set up the commission on the consequences of further devolution for the House of Commons. This commission reported last spring and Ministers are currently giving the report the serious consideration that it deserves.

Baroness Miller of Hendon (Con): I thank the Minister for his reply, but surely the SNP cannot be allowed to make a bet that it cannot lose if it fails to win the referendum. Why should Scottish MPs continue to have the right to vote on exclusively English affairs?

Lord Wallace of Saltaire: My Lords, this is not a new question. Some Members will remember Tam Dalyell very well. I do not think that there are many Members still in this Chamber who will remember the debates in the 1886 home rule Bill on whether Irish MPs should still have full rights once home rule had been granted for Ireland. This is a question that is not only to do with Scotland; Northern Ireland and Wales also come into it. The imbalance between the size of England and the other nations is important, but there is little support in England for the idea of a separate English Parliament.

Lord Wigley (PC): My Lords, does the Minister accept that whatever the outcome of the referendum in Scotland, there is a pressing need for a more coherent, balanced and transparent settlement that is fair to England as well as the devolved nations? In the context of the report to which he referred, will he give a commitment that the Government will move forward rapidly, once the outcome of the Scottish referendum is known, to get changes made to resolve these difficulties?

Lord Wallace of Saltaire: My Lords, the noble Lord has not asked me about the Silk commission but he will be aware that we are still discussing the extent of devolution with the Welsh Government. He will also be aware that England is at the moment a highly centralised state. The Government are happily discussing with a number of cities devolution to major city areas within England. I remind the House that the population of the local authority area of Birmingham is slightly larger than the population of Northern Ireland, so this is an important question for England as well.

Lord Hughes of Woodside (Lab): My Lords, I declare an interest as one who took part in these debates. It is 20 or so years ago since the question arose; is it not surprising that we have no new answers?

Lord Wallace of Saltaire: My Lords, some dilemmas never go away. We have an asymmetrical system of devolution in this country and we have to make it work. As someone who has spent most of his political career in the north of England, I have doubts about the imbalance of advantage within England itself, but that is another issue which we will debate another time.

Lord Cormack (Con): My Lords, I do not have the advantage of my noble friend in remembering personally what happened in 1886, but I keep in close touch with Mr Tam Dalyell. I suggest that it would be very wise to take advice from Mr Dalyell on this issue. He still has the same vigorous intellect we all remember fondly and I am sure that he could bring some wise counsel to bear.

Lord Wallace of Saltaire: My Lords, I am sure that we all wish to send him our best wishes.

Lord Foulkes of Cumnock (Lab): My Lords, I am very happy to pass on those best wishes to my good friend Tam Dalyell. However, is not the West Lothian question a misnomer? Should it not be called the English democratic deficit? Surely the way to deal with it is not to tinker with procedures in the House of Commons but to look at ways to resolve the democratic deficit within England, have more devolution within England and move towards some kind of federal, or quasi-federal, Britain?

Lord Wallace of Saltaire: My Lords, I think that I took part in my first debate on the question of an English Parliament at a conference in Edinburgh in 1968. It is not a new question for any of us here. The problem is that while you can begin to carve up parts of northern England into recognisable regions, once you get down to the south-west and the south-east there is not easy agreement within England about the sort of devolution you would have.

Lord Elystan-Morgan (CB): My Lords, while it is undoubtedly the case that the West Lothian question in its many guises deserves consideration, does the Minister not agree that many other constitutional conundrums cry out for resolution? In particular, under the Barnett formula, the Welsh people are unjustly deprived of about £300 million per annum. Looking at it in the wider context, is there not an overwhelming case for setting up a royal commission to look comprehensively into the relationship of this House to the Commons and the Commons to this House, and of Westminster to the devolved Parliaments of Scotland, Wales and Northern Ireland?

Lord Wallace of Saltaire: My Lords, the noble Lord may be aware that the Political and Constitutional Reform Committee of the House of Commons has, indeed, recommended the idea of a constitutional convention in a recent report. As someone who used to study the British constitution, I have to say that, on the whole, we have preferred to patch it, make do and then put a bit more in rather than attempt a complete redesign.

Lord Purvis of Tweed (LD): My Lords, does my noble friend agree that one of the very positive aspects of devolving further taxation and fiscal power to the National Assembly for Wales and the Scottish Parliament is greater fiscal accountability for those institutions? As a former Member of the Scottish Parliament, I agree with that entirely. Does my noble friend agree that the best answer to the old question of the West Lothian question is to address the issue that it is actually a Westminster question, and that the answer to the old question is perhaps the old solution of British federalism?

Lord Wallace of Saltaire: My Lords, that was exactly the question I was debating with Russell Johnston in Edinburgh in 1968. There is more appetite for fiscal devolution in England, which means restoring to the cities and local authorities a great deal more autonomy in collecting and spending money themselves.

Police: Private Prosecutions

Question

3.04 pm

Asked by ***Lord Beecham***

To ask Her Majesty's Government what is their response to the concerns expressed by the Lord Chief Justice in relation to the Metropolitan Police assisting a private prosecution in return for a share of the compensation recovered.

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach) (Con): My Lords, Section 93 of the Police Act 1996 explicitly allows the

local policing bodies—for example, the Mayor's Office for Policing and Crime and PCCs elsewhere—to receive payments in a range of circumstances. However, we understand the concern that this "slice of the cake" issue has raised and we will be revising the financial management code of practice as appropriate to take account of it.

Lord Beecham (Lab): My Lords, the Met seems to have been persuaded by Virgin to embark on a novel extension of the concept of payment by results, and one that is fraught with potential conflicts of interests. Will the Home Secretary, therefore, issue guidance to the Met and other police forces on the impropriety of such arrangements? Will the Government confirm that they will meet the concerns of the Lord Chief Justice over the dangers of more private prosecutions, as funding for the police and Crown Prosecution Service is cut?

Lord Taylor of Holbeach: My Lords, perhaps I may reiterate what I said in my opening response. I understand the concerns raised about the police assisting in a private prosecution with a promise of a share of compensation. We expect high standards from the police; I think all noble Lords would accept that. In particular, in this case, the Met received only overtime costs, which is right and proper. As I said, we will be updating the guidance to PCCs and the Met to make it clear that such agreements should not be entered into.

Lord Clinton-Davis (Lab): My Lords, did not the Lord Chief Justice urge police chiefs to give urgent—I stress that word—consideration to a practice that undermined the reputation of the police for independence? He was deeply concerned about it. Those are serious observations; they come from an impeccable source, do they not?

Lord Taylor of Holbeach: Yes, indeed—I hope I have given the House an assurance that we take those remarks seriously.

Baroness Hamwee (LD): My Lords, I am sure that the Minister agrees that trust in the police is absolutely essential. To be trusted they need to be trustworthy, and to be trustworthy they need to be seen to be trustworthy.

Lord Taylor of Holbeach: My noble friend is right about this. The public expect the highest level of professionalism and integrity from the police. Next month will be the first anniversary of the Home Secretary's Statement to Parliament on the College of Policing, which I repeated here. The College of Policing is setting out those measures to ensure that the integrity of the police force we share is of the highest standard. This year will see the publication for the first time of a code of ethics by the college.

Lord Richard (Lab): My Lords, the noble Lord has told the House that the Government are taking this issue seriously and will consider it seriously. Can he tell us how long we will have to wait to see the results of that consideration?

Lord Taylor of Holbeach: No, I think I have given the House an assurance that the Government are seeking to act on the code of conduct of financial affairs for the police, and they will be doing so.

Road Safety (Financial Penalty Deposit) (Appropriate Amount) (Amendment) Order 2014

Motion to Approve

3.08 pm

Moved by ***Lord Popat***

That the draft order laid before the House on 16 December 2013 be approved.

Relevant document: 17th Report from the Joint Committee on Statutory Instruments, considered in Grand Committee on 28 January.

Motion agreed.

Commons (Town and Village Greens) (Trigger and Terminating Events) Order 2014

Motion to Approve

3.09 pm

Moved by ***Baroness Stowell of Beeston***

That the draft order laid before the House on 9 December 2013 be approved.

Relevant documents: 17th Report from the Joint Committee on Statutory Instruments, 24th Report from the Secondary Legislation Scrutiny Committee, considered in Grand Committee on 28 January.

Motion agreed.

India: 1984 Operation in Sri Harmandir Sahib

Statement

3.09 pm

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): My Lords, with the leave of the House, I should like to repeat a Statement made by my right honourable friend the Foreign Secretary in another place. The Statement is as follows:

"With permission, Mr Speaker, I wish to make a Statement on the Cabinet Secretary's report into the Indian operation at Sri Harmandir Sahib, also called the Golden Temple, in Amritsar in June 1984.

The House will recall that on 13 January concerns were raised regarding two documents released to the public in the National Archives. The documents relate to the painful events that followed the occupation of

[Baroness Warsi]
the temple site by Sikh dissidents in December 1983, which led to a six-month standoff with the Indian authorities.

In June 1984, a three-day military operation by Indian forces, known as Operation Blue Star, took place. Official Indian government figures estimate that 575 people died. Other reports suggest that as many as 3,000 people were killed, including pilgrims caught in the crossfire. This loss of life was an utter tragedy. Understandably, members of the Sikh community around the world still feel the pain and suffering caused by these events.

Given this, we fully understand the concerns raised by the two documents. They indicated that in February 1984, in the early stages of the crisis, the then British Government sent a military officer to give advice to the Indian Government about their contingency planning. Many in this House and the whole country rightly wished to know what connection, if any, there had been between this giving of advice and the tragic events at Amritsar over three months later.

Within hours of the documents coming to light, the Prime Minister instructed the Cabinet Secretary to carry out an urgent investigation in four critical areas: why advice was provided to the Indian authorities, what the nature of that advice was, what impact it had on Operation Blue Star, and whether Parliament was misled. The Cabinet Secretary was not asked to investigate Operation Blue Star itself, or the actions of the Indian Government, or other events relating to the Sikh community in India. While the Cabinet Secretary has investigated these specific matters, I can make clear that during his investigation no circumstantial evidence has been offered, or has surfaced, of UK involvement in any subsequent military operations in the Punjab.

This investigation has been rigorous and thorough. The Cabinet Secretary and officials have met Sikh organisations to ensure that their concerns informed the investigation. They have spoken to individuals associated with the two documents, although some officials are now deceased, they have examined *Hansard* records from 1984 to the present day, and they have carried out an extensive and thorough search of the files held by all relevant departments and agencies from December 1983 to June1984. Their search through some 200 files and some 23,000 documents found a very limited number of documents relating to Operation Blue Star.

The report notes that some military files covering various operations were destroyed in November 2009 as part of a routine process undertaken by the Ministry of Defence at the 25-year review point. This included one file on the provision of military advice to the Indian authorities on their contingency plans for Sri Harmandir Sahib. However, copies of at least some of the documents in the destroyed files were also in other departmental files and, taken together, these files provide a consistent picture of what happened.

The Cabinet Secretary's investigation is now complete. Copies of the report have been placed in the Libraries of both Houses, and it is now being published on the government website. The report includes the publication of the relevant sections of five extra documents that shed light on this period, but which would not normally have been published. We have taken this step because the whole investigation has been based on a commitment to the maximum possible transparency. We want to be as open as possible with the British public, in so far as that does not undermine the principle upheld by successive British Governments of not revealing any information relating to intelligence or Special Forces.

The main findings of the Cabinet Secretary's report are as follows. First, on why the UK provided advice to the Indian Government, the Cabinet Secretary has established that in early February 1984, the then Government received an urgent request to provide operational advice on Indian contingency plans for action to regain control of the temple complex. The British high commission in India recommended that the Government respond positively to the request for bilateral assistance from a country with which we had an important relationship. This advice was accepted by the then Government.

Secondly, the Cabinet Secretary then examined the nature of the advice that was provided to India following that decision. He has established that a single British military adviser travelled to India between 8 and 17 February 1984 to advise the Indian intelligence services and special group on contingency plans they were drawing up for operations against armed dissidents in the temple complex, including ground reconnaissance of the site. The adviser's assessment made clear that a military operation should be put into effect only as a last resort, when all attempts at negotiation had failed. It recommended including in any operation an element of surprise and the use of helicopter-borne forces, in the interests of reducing casualties and bringing about a swift resolution.

This giving of military advice was not repeated. The documents show that the decision to provide advice was based on an explicit recommendation to Ministers that the Government should not contemplate assistance beyond the visit of the military adviser, and this was reflected in his instructions. The Cabinet Secretary found no evidence in the files or from discussion with officials involved that any other form of UK military assistance—such as equipment or training—was given to the Indian authorities. The Cabinet Secretary's report therefore concludes that the nature of the UK's assistance was purely advisory, limited and provided to the Indian Government at an early stage in their planning.

Thirdly, the report examines what actual impact UK advice had on the Indian operation, which took place between 5 and 7 June 1984, over three months later. The report establishes that during that period the planning by the Indian authorities had changed significantly. The number of dissident forces was considerably larger by that time, and the fortifications inside the site were more extensive. The documents also record information provided by the Indian intelligence co-ordinator that after the UK military adviser's visit in February, the Indian army took over lead responsibility for the operation and the main concept behind the operation changed.

The Cabinet Secretary's report includes an analysis by current military staff of the extent to which the actual operation in June 1984 differed from the approach

recommended in February by the UK military adviser. Operation Blue Star was a ground assault, without the element of surprise, and without a helicopter-borne element. The Cabinet Secretary's report therefore concludes that the UK military officer's advice had limited impact on Operation Blue Star. This is consistent with the public statement on 15 January 2014 by the operation commander, Lieutenant-General Brar, who said that,

"no one helped us in our planning or in the execution of the planning".

It is also consistent with an exchange of letters between Mrs Gandhi and Mrs Thatcher on 14 and 29 June 1984 discussing the operation, which made no reference to any UK assistance. Those parts of the letter relevant to Operation Blue Star are published with the Cabinet Secretary's report today.

The Cabinet Secretary has also examined two other concerns raised in this House and by the Sikh community; namely, that Parliament may have been misled, or that the decision to provide advice may have been linked to UK commercial interests. The report finds no evidence to substantiate either of these allegations. The investigation did not find any evidence in the files or from officials of the provision of UK military advice being linked to potential defence or helicopter sales, or to any other policy or commercial issue. There is no evidence that the UK, at any level, attempted to use the fact that military advice had been given on request to advance any commercial objective. The only UK request of the Indian Government, made following the visit, was for prior warning of any actual operation, so that UK authorities could make appropriate security arrangements in London. In the event, the UK received no warning from the Indian authorities before the operation was launched.

The Cabinet Secretary also concludes that there is no evidence of Parliament being misled. There is no record of a specific question to Ministers about practical British support for Operation Blue Star, and he concludes that the one instance of a Written Question to Ministers related to discussions with the Indian Government on behalf of the Sikh community after the operation.

In sum, the Cabinet Secretary's report finds the nature of the UK's assistance was purely advisory, limited and provided to the Indian Government at an early stage; that it had limited impact on the tragic events that unfolded at the temple months later; that there was no link between the provision of this advice and defence sales; and that there is no record of the Government receiving advance notice of the operation. Nonetheless, we are keen to discuss concerns raised by the Sikh community. The Minister responsible for relations with India, my right honourable friend the Member for East Devon, will discuss this with Sikh organisations when he meets them later today. This reflects the strong, positive relationship this Government have with the British Sikh community, which plays such a positive role in so many areas of our national life.

We are also determined to look at the wider issues raised by these events about the management and release of information held by Government. Under the Constitutional Reform and Governance Act 2010, the 30-year rule has been superseded by a 20-year rule, so that from 2022 all annual releases will be after 20 years. However, it is not clear at the moment that this change is being approached in a uniform fashion by all departments. The Prime Minister has therefore decided to commission a review to establish the position across government on the annual release of papers and the ability and readiness of departments to meet the requirements of moving from a 30 to a 20-year rule, including the processes for withholding information. This review will be carried out by the Prime Minister's Independent Adviser on Ministerial Standards, Sir Alex Allan.

Nothing can undo the loss of life and the suffering caused by the tragic events at Sri Harmandir Sahib. It is quite right that the concerns that were raised about UK involvement have been investigated. It is a strength of our democracy that we are always prepared to take an unflinching look at the past. But I hope this investigation and the open manner in which it has been conducted will provide reassurance to the Sikh community, to this House, and to the public, and in that spirit I present it to the House".

3.20 pm

Lord Bach (Lab): My Lords, I thank the Minister for repeating the Statement made in another place by her right honourable friend the Foreign Secretary. It is clearly a matter of considerable interest to this House—one can see that by just looking around on all sides—and there will be noble Lords here who were involved at the time, either in opposition, in government or in some other way. It is a matter of considerable interest to this House and we are grateful to the noble Baroness.

The raid in 1984 on the Golden Temple complex, called Operation Blue Star, resulted, as the noble Baroness has already told us, in hundreds of deaths, devastating damage to the temple and rising levels of sectarian violence. It also, ultimately, saw the assassination of Indira Gandhi, the Prime Minister of India, later that same year. We welcome what light the report sheds on the British Government's alleged involvement with these events. We also welcome the fact that some of the key documents relating to this event and the British Government's alleged involvement have now been published.

There are still some serious questions to be asked about the involvement, conduct and contribution of the British authorities—perhaps at the highest level—in the events that surrounded the storming of the Golden Temple, which cost so many innocent lives. I therefore wish to ask the Minister a few questions around that topic.

Have the Government made public all the documents they intend to make public about this incident? We are grateful, of course, for the documentation in the annexe to the Cabinet Secretary's report, but if there are other relevant documents, why have they not been published, and is there any intention to publish them in the future? Given that the report cites officials interviewed over the course of the investigation, will the Government commit to publishing a list of those officials, and if not, why not? We know from exchanges in another place that Ministers at the time have been interviewed and spoken to about this matter by the Cabinet Secretary

[Lord Bach]
in compiling his report. Can the Minister confirm that that is the position and whether their testimony might be made public?

I move on to the terms of the investigation led by the Cabinet Secretary. We welcome the fact that, following representations by the Sikh community, the Cabinet Secretary published a letter which detailed the scope of his inquiry. Can the Minister explain to this House why there was over a three-week delay in publishing the terms of reference? Can she further clarify whether the terms of the inquiry changed while it was taking place? The terms of reference as published in a letter from the Cabinet Office on 1 February did not include specific reference to the time period covered by the investigation, yet the final report which we have seen today sets out a timeframe of December 1983 to June 1984. Why was this timeframe not made public earlier in the process?

Many—both inside and outside Parliament—have expressed regret that the investigation seems to cover only the first part of 1984, given the enormous significance of events in the weeks and then the months after June 1984 and their direct link to the storming of the Golden Temple. Will the Government ask the Cabinet Secretary to set out whether he believes there could be some grounds for a fuller inquiry covering a longer period?

I turn briefly to the substance of the findings in the report. There is, and I quote directly from the Cabinet Secretary's review,

"no record of any assistance to the June 1984 operation (called 'Blue Star' by the Indian Government) other than the limited military advice provided in mid-February".

Can the Minister set out whether the nature of that "limited military advice" provided earlier that year ruled out conclusively the possibility that the British Government offered support for Operation Blue Star in the form that it was eventually undertaken? I refer in particular to one document of those presented today, dated 23 February 1984, from the Private Secretary to the Foreign Secretary, to the Principal Private Secretary at No. 10. It says, talking about the military adviser in question:

"With his own experience and study of this kind of problem, he was able to advise the Indians of a realistic and workable plan which Mrs Gandhi approved on her return from Moscow on 16 February".

I wonder if the Minister can comment on that point.

The report sets out that there has been a quick analysis in recent weeks by current UK military staff, which confirms that there were differences between the June operation and the advice from the UK military officer in February. Indeed, in repeating the Statement, the Minister mentioned some of those differences. Why was this analysis as quick as it was? Is there any point in perhaps having a rather longer analysis to see what the position is?

Noble Lords are of course aware of the continuing pain felt by the Sikh community around the world—not least in this country—at those events and the deaths and destruction that they caused, but also at the anti-Sikh violence following the assassination of Prime Minister Indira Gandhi and the emergency period that followed which saw arbitrary arrests and accusations of torture, rape and disappearances, some still unresolved today. While of course there are differences within the Sikh community over the issue of a separate Sikh state, there is unanimity in their horror at these events. For British Sikhs particularly perhaps over recent years, there has been the added burden that their own Government may—may—have been involved in these actions. We believe that the Government have a continuing responsibility to address the widespread concerns and fears that still exist. Do they agree? If they are able to provide answers to those concerns and questions, then we as Her Majesty's loyal Opposition will of course support them in that effort.

3.30 pm

Baroness Warsi: My Lords, I start by thanking those noble Lords who have discussed this matter with me over the past few weeks, and indeed the Opposition for making sure that they have played a part in the discussions that took place to make sure that all the concerns of the British Sikh community and the wider community were brought to bear when the report was being prepared. I urge noble Lords to read the report and the documentation attached to it because it goes into great detail. The Statement is in no way as good as the actual report and documentation, which I think sheds greater light on what happened at the time.

I hope that I have assured noble Lords on the basic questions that were asked as the report was being prepared about the UK's involvement, the extent of the advice that was given and how material that advice was. I hope that noble Lords are assured by the amount of documentation which has been considered for the report. I can also confirm that all the documentation which we intend to make public has been made public, but of course we can never guarantee what documentation may come to light in future years as part of disclosure. I have, however, informed the House of the extent of the documentation that was considered in the preparation of this report.

During the course of the investigation the Cabinet Secretary and officials spoke to individuals who were associated with the two documents. However, as some of those officials are now deceased we have had to consider the documentation only. I am sure that noble Lords will accept that it is right to protect the anonymity of the officials at this stage, which is in line with standard government procedure. We do not intend to name the officials who were interviewed and nor do we intend to disclose the transcripts.

The noble Lord asked me about the terms of reference which applied to the investigation. The terms of reference were set out by the Prime Minister in the other place during PMQs on 15 January. He focused on establishing the facts about the UK's involvement. They were: to look at why the Government provided advice to the Indian authorities, the nature of the UK assistance and the impact of that assistance. The terms of reference of the review were not narrowed in any way; indeed, they were widened to take account of some of the areas of concern that were raised. These included ensuring that all further concerns were addressed. There was no delay in publishing the terms of reference. We were not committed to publishing them from the

outset, but decided to do so given the questions being asked about the point. I would say that the inquiry was thorough and quick in response to the important questions that were being asked. I am not sure whether noble Lords spend time watching the ethnic Sky media channels in the way that I do, but if anyone has seen those channels or Sangat TV they will know that this has been a topic of constant discussion within the British Sikh community for many weeks. It was why the Government felt it appropriate to deal with the matter as swiftly as possible.

On the point about a longer analysis, I think it is right to go back to what it is that the Cabinet Secretary was asked to look at—and that was in relation to the UK's involvement. I have no doubt about the strength of feeling within the British Sikh community and indeed in the Sikh community across the wider world. These events are still raw and form part of a discussion among young Sikhs who were not even born at the time the tragedy occurred. Of course, as we approach the 30th anniversary, it is becoming even more of an issue. But it is not for the British Government to be involved in matters which I am sure noble Lords will accept were sovereign matters for the Indian state. This report was never about reopening Operation Blue Star, it was about looking at UK involvement. I hope that I have been able to assure noble Lords about our role in that.

3.33 pm

Lord Dholakia (LD): My Lords, I thank my noble friend for repeating the Statement, and I ask her to extend those thanks to the Cabinet Secretary for the open and transparent way in which he has carried out the investigation. No matter where we stood at the time of the attack on Sri Harmandir Sahib, the Golden Temple, it is clear that the revelations have been a shock to almost all the Sikh community, not only here but around the world.

The Golden Temple, the holiest temple, which many of us have visited, is a place of tranquillity and peace. It is of the deepest significance to the Sikh community, and as has rightly been pointed out, this matter is being discussed all over the world. The Prime Minister has visited the Golden Temple at Amritsar, and he then also visited the site of the Jallianwala Bagh where, as colleagues will recollect, the massacre of a large number of Indians was committed on the orders of General Dyer. The Prime Minister was good enough to offer an apology at that stage. Even at this late stage, should we not extend some regret about our involvement in this episode at that time?

My second point is that, even at this late stage and with the broad Statement before us, will the Minister undertake to discuss it in her meeting with colleagues from the Sikh community and make sure that it goes to every gurdwara in this country, so that they are aware of the depth to which this episode has been investigated and precisely what happened at that time in relation to the British Government's involvement?

Baroness Warsi: I hear clearly what my noble friend says. I had the privilege of being the first Minister in this Government to visit Sri Harmandir Sahib and also Jallianwala Bagh, where the tragedy of 1919 is still of significance, certainly for someone like me with origins in those lands. Those visits were incredibly poignant and emotional moments.

However, I take us back to the subject of discussion here. The reason for what the Prime Minister said and did in relation to Jallianwala Bagh was, of course, that there was a terrible, tragic massacre in which the United Kingdom was completely involved. We are talking now about a situation which involved Indian forces. The question that I had to address at the Dispatch Box was the nature of the UK's involvement. I hope that, through the Statement and the documentation that has been published, I have made clear the UK's involvement. Apologies go with responsibility but in this particular case the responsibility does not lie with the British Government. I completely understand the sentiment in the British Sikh community, and indeed in the wider community, but I do not feel that, so far as the United Kingdom is concerned, this is the kind of case that could be compared to Jallianwala Bagh.

On the noble Lord's wider point about engagement with the British Sikh community, I enjoy a good relationship with that community as a Minister both in the Foreign Office and in the Department for Communities and Local Government. We meet regularly, both through Sikh communities coming to the department and through visits. Only a few months ago I was at the Nishkam Centre in Birmingham. We place huge value on our relationship with the Sikh community. We also note the huge contribution that Sikh communities make in the economic and professional fields and also in volunteering, something that I hold very dear and is so apparent when visiting places like the Nishkam Centre and other temples.

The Minister with responsibility for India, my right honourable friend Hugo Swire, is meeting the Sikh community as we speak, I think. The noble Lord, Lord Singh, is probably not in his seat because he is at that meeting. I was hoping that this Statement would be taken at 5 pm so that I could also be present at that meeting, as I intended. However, I will certainly follow it up with a further meeting with the community.

Lord Alton of Liverpool (CB): Indeed, my Lords, my noble friend Lord Singh has asked me to express his regrets to the Minister and to the House that he cannot be in his place, given that he has followed this issue with assiduousness and determination over a very long period, but he is at the meeting to which the Minister has just alluded.

The Minister will have seen the statement made by Bhai Amrik Singh, the chairman of the Sikh Federation, that he was "hugely disappointed" with the inquiry's "narrow terms" and that his meeting with the Cabinet Secretary, Sir Jeremy Heywood had failed to assuage his concerns. Given that the Minister has done so much to build good relationships with the Sikh community, will she assure the House that she is willing to meet Mr Singh to discuss whether there are outstanding issues that could still be examined? Will she also comment briefly on the remarks she made about Britain's commercial interests when she repeated the Foreign Secretary's Statement earlier and said they had played no part at all in any of these events? Would

[Lord Alton of Liverpool]
she be willing to publish a list of any arms deals that were made during the period prior to and immediately after these events in 1984?

Baroness Warsi: The noble Lord makes an important point. I think Amrik Singh is part of the delegation of individual organisations and individuals who are meeting with Minister Swire, but if that is not the case and he is not part of that meeting, I will certainly see whether appropriate contact could be made. As I said, I will be making contact myself with members of the Sikh community in the coming weeks and months. There is a wide range of opinion. I had the opportunity to discuss the matter at some length with the noble Lord, Lord Singh, and my honourable friend Paul Uppal, who is the only Member of Parliament of Sikh origin in the House of Commons. Quite a breadth of opinion has come back from the Sikh community about how far the British Government are expected to go to satisfy certain elements of that community. I completely take on board how raw this issue is—and how raw Operation Blue Star is—and to what extent certain elements of the community wish there to be a truth and reconciliation process. However, going back to what I said at the beginning, that is a separate issue to the one that we are dealing with, which is what the UK's involvement was.

I assure the noble Lord that the advice that was given was not linked in any way to commercial interests or to a particular defence contract or negotiation. That is certainly what the documentation shows. I am not sure how much further it would take the matter to start publishing any discussions that were happening in relation to any sort of commercial activity with the state over whatever period of time. I know from my own dealings with countries that we are engaged with through UKTI that these matters can sometimes take months and sometimes years. How far would that net have to be cast? I would like to be assured, and to reassure the House, on whether there was, in this particular case, a commercial connection to the decision. I can assure noble Lords that there was not.

Baroness Berridge (Con): My Lords, my noble friend the Minister outlined that the processes regarding the non-disclosure of information are going to be the subject of a further inquiry. Looking at the Statement from the Government, it appears that it was fortuitous that certain documents were copied into other departmental files, as the whole file was destroyed at the Ministry of Defence's 25-year review. We are grateful for what appears to be that fortuitous copying of documents, but is the correct inference that, without it, a comprehensive file would not have been retained for this inquiry to base its conclusions on? How is that going to be part of the ongoing inquiry when that review, presumably, will be done now by the Ministry of Defence at 15 years for a 20-year release of information? Could that be part of the ongoing process?

Baroness Warsi: I am sure that these matters will be looked at. My noble friend will be aware that this Government are hugely committed to the issue of transparency, which is why we brought in the 20-year rule, bringing the period down from 30 years. It is important that documentation—subject of course to national intelligence issues and national security interests—is put into the public domain. The documentation that was destroyed was part of a 25-year review. As my noble friend says, it was fortuitous that elements of that documentation were present in other departments. I am sure that lessons will be learnt from this incident.

Lord Desai (Lab): My Lords, the noble Baroness was quite correct in saying that Operation Blue Star was the responsibility of the Indian Government. However, there have been reports in the press that the advice given by the military adviser to the Government in India was to not undertake Operation Blue Star but to wait out the people who were in the temple and settle the issue much less violently than was the case. Has any evidence been unearthed to confirm that? If so, would it not be to the advantage of all concerned to make it public?

Baroness Warsi: The noble Lord may have heard in my Statement that the advice given was that entering the temple should be seen as a last resort and that a negotiated settlement was the right and the first way to proceed in these matters. In any event, it is clear what advice was given by the British officer and it is also clear that that advice was not followed. That is also an important element of the Cabinet Secretary's report.

Lord Butler of Brockwell (CB): My Lords, I was the Prime Minister's principal private secretary at the time of these events. One of the documents published today is the letter from the Foreign Secretary's office seeking the Prime Minister's assent on 3 February to the sending out of a military adviser. While it is clear from the extent of the underlinings made by the Prime Minister on that letter that she considered this proposal very carefully, will the Minister confirm that, beyond giving her assent and asking to be kept informed of subsequent developments, she took no initiative and no other action in relation to this matter between March and June, when the military action took place?

Baroness Warsi: That certainly appears to be the case and, of course, if the noble Lord's reading and recollection is of that being the case, certainly I would take his word on that.

The Lord Bishop of Chester: My Lords, the noble Lord, Lord Desai, made the point that using force to resolve a situation is nearly always counterproductive and has results that you do not anticipate. Are there two additional lessons from this? First, the speed with which this report has been produced is commendable. I think of the Chilcot inquiry that we are still waiting for. This has been done in a few weeks and it seems to me to be a lesson for other situations in which a bit more speed can help the reconciliation process. Secondly, is one of the lessons that understanding religious sensitivities is something the modern world can find hard to do? One thinks of Ariel Sharon going to the Temple Mount and starting the second intifada, with all the consequences that have flowed from that. Is that a lesson that we should draw from these events?

Baroness Warsi: I thank the right reverend Prelate for his warm words in relation to the way in which this inquiry was conducted quickly. It was certainly part of the clear remit set by the Prime Minister at the outset.

The right reverend Prelate makes an important point. To understand the sentiment within the British Sikh community it is important to understand the significance of Sri Harmandir Sahib; the significance of the timing of Operation Blue Star; the implications in relation to the damage that was done to Sri Harmandir Sahib; and the basis of some of the concerns that were being raised by the dissidents. It is an important point. This is the challenge that I have in a sometimes aggressively secular world; some of these sensitivities are not properly explored and understood.

Lord Avebury (LD): My Lords, does the Minister consider that the destruction of some of the principal documents in this matter, and the fortuitous recovery of the contents of some of the documents by reason of the fact that copies were made, indicates that a review should be conducted on the rules for the destruction of documents? These matters could have been lost to posterity if it had not been for the copies that were made.

Baroness Warsi: I alluded to that in my repeating of the Statement. I said that we were determined to look at the wider issues presented by these events about the management and release of information by government, and, of course, the management of how documentation is held and how it is destroyed. I will certainly make sure that the views of my noble friend are fed into that.

Lord Richard (Lab): Will the noble Baroness help me? Has the advice given by the British military to the Indian Government been unearthed? Is that one of the documents that has been discovered fortuitously? If so, has it been published? Presumably the Indian Government might still have a copy of that advice. It might have been copied inside Whitehall to heaven knows how many departments. If the document exists, does she not think that perhaps it would be a good idea to publish it?

Baroness Warsi: As the noble Lord was speaking, I was going through the documentation that had been published. There was a note of the advice that was given. I am not sure whether that is part of the documentation that is published. I will certainly check that again. I suggest the noble Lord goes back, reads the report and looks at the documentation. It may well be that the information is in there. I have seen so much documentation in relation to this matter over the past three weeks that I am starting to lose track of exactly which bits of it I have seen where.

Lord Elystan-Morgan (CB): My Lords, both the Minister and the noble Lord, Lord Dholakia, referred to the Amritsar massacre of 1919. Does the Minister accept that this House is very intimately and embarrassingly connected with that massacre, in that after it took place a resolution was passed in this House—I believe unanimously—congratulating Brigadier-General Dyer on his distinguished conduct? Of course, I appreciate the apology made very properly by the Prime Minister some time ago, but has the time not now come when that blot on the escutcheon of this noble and honourable House should be removed?

Baroness Warsi: My Lords, I think that particular discussion would go beyond the remit of the Statement today. I go back to what I said before; I had an opportunity to visit Jallianwala Bagh. In many ways, this is much more personal to me than it may be to other noble Lords in the House as I am deeply connected to it in terms of my own family connections back to the Punjab. What the Prime Minister did in both visiting Jallianwala Bagh and saying what he said meant a lot to people—and certainly to my grandmother, who is still alive. History always judges matters in a different way but the Prime Minister has certainly tried to put the record straight.

Water Bill

Committee (1st Day)

3.51 pm

Clause 1: Types of water supply licence and arrangements with water undertakers

Amendment 1

Moved by ***Lord Whitty***

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

"( ) Granting of an authorisation of a retail or restricted retail authorisation for supply to non domestic sector customers must be done in such a way and on such terms that it does not disadvantage domestic customers."

Lord Whitty (Lab): My Lords, compared with some of the amendments before us this afternoon, this one is pretty straightforward and also pretty fundamental. We on this side of the House support the principle of extending competition in the non-residential retail sector of water, partly because we have been impressed by the progress made and experience in Scotland. There, not only have businesses and public bodies benefited from competition within the sector but also there appears to be benefit for the household sector from improved efficiency driven by that competition. That is a good model but of course history does not always repeat itself. We have a very different structure here in England and Wales, and markets are funny things. You cannot predict how the knock-on effects of introducing competition will work out in either the short or medium term.

The Government have made it clear that they do not at this juncture wish to give powers to extend competition into the household sector directly. The logic of competition in the non-domestic sector may well lead to improved efficiency but could equally lead to much tighter margins in the incumbent companies. Ideally, there would be other ways of compensating for those tighter margins but there would be a temptation for companies to restore their margins effectively through higher costs or less good customer service to the

[LORD WHITTY]
household sector. We know that that is not the intention of the Government, nor of the Opposition in supporting the Government in the principle of the move in this respect. We also know that Ofwat will use codes and charging regimes to try to prevent such a thing happening to the disadvantage of the household sector. However, would it not be sensible for this essential principle to be embedded right up front in the Bill?

I am sure that the Government will argue that this is probably not the right place for it but, because of the way the Bill is constructed and the slightly obscure way that retail competition comes in the redraft of 20 year-old legislation, the introduction of retail competition does not exactly leap off the pages of the Bill. Therefore, it would be sensible to put the qualification in early.

Accepting Amendment 1 would ensure that there is no ambiguity and that the intention of the Bill is to introduce retail competition in the non-domestic sector, but with no disadvantage in either price or in kind to the domestic sector. In addition to Amendment 1, Amendment 121 in this group would require Ofwat to keep an eye on the relativity between non-household and household charges. Amendment 45 reflects the need not to disadvantage the household sector by either price or lower service in relation to setting charges and establishing codes, which Ofwat is required to do under the Bill.

Amendment 1 is the principal amendment and would amend Clause 1 so that there would be no ambiguity. I very much hope that the Government can accept such an amendment, or something very like it. I beg to move.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord De Mauley) (Con): My Lords, I thank the noble Lord, Lord Whitty, for his Amendments 1, 45 and 121 on the important issue of protecting householders. It is a crucial issue and one that the Government take very seriously.

Before I go further, I ought to take the opportunity to reiterate disclosure of my interests. I have a tributary of the River Thames running through my farm; I have an abstraction licence and a borehole. I own a house that was flooded in 2007 and I own one-third of a commercially operated lake.

The noble Lord, Lord Whitty, introduced the Water Act 2003 to Parliament, which was intended to put the customer at the heart of the water sector. This Government have continued that work through the water White Paper. We have been very keen, throughout the reforms that the Bill makes to the non-household market, that the household customer remains fully protected, and I think that we have achieved that. Indeed, the Bill introduces reforms designed to help us manage future pressures as efficiently as possible, ensuring that customer bills are kept fair for the long term.

The Secretary of State, Ofwat and the Consumer Council for Water all have a shared duty to protect customers. They must have special regard to, among other people, rural customers and people who are unable to switch their suppliers when carrying out their statutory functions.

There are already mechanisms in place to prevent business customers' bills being subsidised by household bills. Ofwat's policy of setting different retail price caps for household and non-household in the current price review will ensure that households do not subsidise the competitive market. Let us be clear about what that means. We can be certain that household customers will not cross-subsidise retail competition because there are separate wholesale and retail price limits. The costs of implementation for upstream reforms will be shared, as will the benefits. It is not desirable to prevent that, as this would also isolate household customers from the benefits of this reform.

We expect that household customers will benefit from the improvements and innovations that competition will foster. Water companies will be incentivised to introduce efficiencies and invest in improved customer services in order to retain and attract non-household customers. There will be positive knock-on effects. Household customers are also likely to benefit from these improvements, as our impact assessment shows.

We will come to the issue of de-averaging in later debates, so I will not detain your Lordships by talking about it now.

I stress that the Bill puts in place a framework that enables household customers to be protected against any changes to their bills resulting from the expansion of the competitive market. To be explicit, our charging guidance will say that de-averaging must occur only where it is in the best interests of customers.

I started by saying that we take the protection of customers of customers seriously. I hope that I have been able to reassure the noble Lord that we have thought about these issues very carefully indeed, and I hope that he will agree to withdraw his amendment.

4 pm

Lord Crickhowell (Con): My Lords, perhaps I might take this opportunity right at the start of the Committee to make two general observations. First, I cannot think of any complicated Bill which has been so admirably handled as this one has, so far, by my noble friend Lord De Mauley. He has had a series of briefing meetings trying to explain the complexities of the Bill and has taken infinite trouble to write to those of us who expressed anxieties at Second Reading or on other occasions and give us reassurance.

Having said that, this is an extraordinarily complex Bill, as the noble Lord, Lord Whitty, indicated in moving his amendment. I am told that there are competitors but in my 43 years in both Houses, I do not believe that I have ever had to follow a more incomprehensible Bill. That is because it takes two major pieces of legislation, and one or two other less relevant pieces of it, and amends them in a series of complex ways. It then introduces a whole string of regulations, some of which are not yet defined and made. Simply finding your way through the Bill to find the clauses is extraordinarily difficult. When I thought that I might put down probing amendments to bring out one or two points, I abandoned the task as I could not begin to see where I could do it.

That leads me to make one other observation. When we are confronted with this kind of legislation, I wonder whether it would not be better simply to start

with a clause which says, "This Bill cancels and replaces"—or whatever the word might be—"the following Bills", so that it presents the legislation affecting the industry in one comprehensive new Bill which everyone can follow. What worries me is that once we have completed our proceedings in this House and the Bill becomes an Act, how on earth are the general public and those who have to operate it going to discover easily what the Bill's contents mean for them? I wonder whether the Government have yet given any thought to having a clear way in which they could present things to the public, and indeed to the water authorities and the new people who we hope will be brought into the industry. Perhaps they could build on the kind of papers that my noble friend has so helpfully presented. There is a real problem and I hope that, as we go through these proceedings, the Government will give careful thought as to how we tell the British public and those who have to implement the proceedings what is actually in the Bill.

Lord De Mauley: Perhaps I might quickly respond to that. First, what I should have done when I spoke first was to thank those noble Lords who have come to discuss their concerns with the Bill with me. That has been an extremely informative and helpful process. I am grateful to my noble friend for his point; he is not the first to say it. As he kindly says, we have been doing our best to help noble Lords with the Bill and I will continue to do that. I also take his point about informing the wider public. If I may, I will take that point away and see what we can do.

Lord Whitty: My Lords, I thank the Minister and the noble Lord, Lord Crickhowell. I have to say that if the noble Lord, Lord Crickhowell, cannot understand this Bill, with not only his experience of the whole legislative programme and procedures in both Houses but his intimate knowledge of the water sector, there is precious little hope for the rest of us. As for the general public or even those people who are to operate it within the industry and its regulation, there are some serious difficulties.

The noble Lord, Lord Crickhowell, was absolutely right to say, as I mentioned at Second Reading, that the Minister and his officials have been extremely generous with their time and effort. A lot of those documents are extremely comprehensible. It is a pity that that is not reflected in the Bill but it is a huge improvement on some departments that we have at times known, under all Governments. So I congratulate Defra and the Minister on the information given to us.

However, given the Bill's complexity and the difficulty of reflecting it in simple terms for those who are operating it, let alone the average consumer or small business at the far end of the water chain, would it not be simpler to put something quite straightforward, like my amendment, right at the beginning of the Bill, so that everybody could understand it? The Minister has not taken this point fully.

I can understand the Bill sufficiently to see that there are checks and balances in relation to the charging system. It is difficult to see how the domestic sector would, literally, come to subsidise the non-domestic sector as a result of competition being introduced in the latter. However, it is not just about pricing. If the incumbent is faced with squeezed margins it is not just a question of banging the price up a bit because that is, by and large, set for five years and Ofwat would be pretty stringent in ensuring that it stays. However, you can save money by diminution of service and this is why I use the word "disadvantage" rather than referring to cross-subsidy. The sector could suffer from non-price effects of this if it went wrong and competition, instead of driving efficiency across the board, as we are told it has done in Scotland, did not have that effect on the supply to the domestic sector.

I would like to see this at the front of the Bill but I am clearly not going to get that from the Minister today. However, I suspect that, as we go on, there will be other points where greater clarity and part of the Bill being written in large letters would help people to understand. I beg leave to withdraw the amendment.

Amendment 1 withdrawn.

Amendment 2

Moved by ***Viscount Hanworth***

2: Clause 1, page 2, line 13, at end insert—

"(8) The Secretary of State shall, following consultation, issue rules for the designation of the market operator for the retail non household market, setting out the procedures, responsibilities, status and governance of such market operator."

Viscount Hanworth (Lab): My Lords, I also thank the noble Lord, Lord De Mauley, for his very helpful approach in informing some of us of the intricacies of the Bill. This is a probing amendment, designed to throw some light on the arrangements regarding the so-called market operator. An electronic search of the Bill fails to reveal a single instance of the words "market operator". We have been alerted to the intention to create this entity by an organisational flowchart entitled "How Will it All Work?". This was provided by Defra officials in the course of a seminar that preceded the introduction of the Bill to this House. The words are to be found within a centrally located box that is connected to boxes labelled "the regulator", "the retailers" and "the wholesalers". I tend to view such charts from the perspective of the circuit diagrams of electrical engineering, hence I have anxieties about the dangers of short-circuiting or worse. This flowchart contravenes all the rules of electrical safety.

There was nothing in the document presented at the seminar to inform us of the role of the market operator. However, one noticed that the top left-hand corners of its pages were stamped with the logo of an organisation called Open Water. We have been told that Open Water is a programme created to support the Government's vision for the future of water management in England and that it is to be steered by a high-level group consisting of representatives of Defra, the Scottish Government, the Welsh Government, customers, Ofwat, the Water Commission for Scotland and the water companies. Only Uncle Tom Cobbleigh is missing from the list.

An immediate question is whether this organisation is real or a mere fiction. One way of substantiating the existence of an organisation is to look for its website. The website of Open Water is readily accessible but an

[Viscount Hanworth]
examination of what is there only adds to the doubts and confusion. One prominent item on the site is a question and answer file that purports to be an interview, in real time, with the programme director, Keith Fowler. It is clearly nothing of the sort and this assertion is notwithstanding the fact that the document ends by expressing thanks to Keith Fowler for "talking to us today". I had not previously encountered this kind of bamboozlement.

A somewhat more informative document, available at this website, is titled *Market Operator Target Operating Model*. This purports to tell us what the market operator will and will not do. However, in places the document is curiously self-contradictory. Thus it is stated that the market operator,

"should carry out monitoring and reporting of market code compliance",

and have delegated authority to issue,

"warnings and … financial and non-financial penalties".

It is also stated, in a seeming contradiction, that:

"Enforcement of significant market issues should not be performed by the",

market operator, and it is said, in an oddly confusing manner, that, if needs be, the market operator,

"should administer, but not arbitrate on, market disputes".

Clearly, there is need for some clarification here, which is what the amendment seeks.

A further issue that needs to be clarified concerns the steering of a market operator, and its relationship to Open Water. We learn from the aforementioned document that the market operator,

"should be a company limited by guarantee",

that will be owned and paid for by the water companies, that its set-up costs should be paid for by the wholesalers and that its running costs should be split between wholesalers,

"incumbent retailers, new entrant retailers and self-supply customers".

A danger that may arise and that needs to be guarded against is that of regulatory capture, a process by which regulatory agencies eventually come to be dominated by the very industries that they have been charged with regulating. The terminology originated in the United States, where it has been used to describe how the intentions of the federal Government have been widely subverted. Aspersions of regulatory capture have already been made against Ofwat; we need assurances from the Minister that the Government are aware of such dangers and will take steps to avert them. I beg to move.

The Earl of Selborne (Con): My Lords, I declare my interests, as I did at Second Reading, that, like the Minister, I am a farmer with an abstraction licence, although I have not been flooded—so to that extent, I do not claim the same interests.

The amendment would require Ministers to issue rules for the,

"designation of … procedures, responsibilities, status and governance",

of a market operator. I cannot believe that such ministerial control would assist in the implementation of a successful market. In regulated utility industries, whether energy, communications or water and sewerage, the management and control of market operations is initially the responsibility of the regulator, working alongside the industry. Once the market is up and running, it becomes the responsibility of the industry, supported of course by the oversight of the regulator, which provides the framework. This approach helps to ensure that the regulator and the industry work together; the industry will need to adapt to innovation and new circumstances. We recognise that in this Bill we are promoting innovation and we have to ensure that the regulation adapts accordingly. The industry will need to adapt to innovation and these new circumstances, and it is for the regulator and industry to ensure that working practices are aligned in the regulatory framework that we are establishing in the Bill. I simply do not believe that it would be helpful to have a politician—the Minister of the day, of any party—fulfilling the role of controlling the market operator in this far-reaching way.

Baroness Parminter (LD): My Amendment 95 is grouped with the amendment moved by the noble Viscount, Lord Hanworth. I wish to probe the issue to get a bit more information from the Minister on the shadowy role of the market operator. Before I do that, however, I take the opportunity on this first day in Committee to say that the truncated nature of the parliamentary process, with less than two weeks between Second Reading and going into Committee, has presented certain challenges to those of us who are trying to do our duty and give proper scrutiny to this complex Bill, as my noble friend Lord Crickhowell said. Like others, I thank my noble friend the Minister and the Bill team for the briefings and the clarity of the briefing papers, but that still leaves certain gaps in our knowledge. Noble Lords will be aware that the comments of the Delegated Powers and Regulatory Reform Committee on the Bill were published only on Friday, and we still await the Government's response. Clearly, we have had to table our amendments before the Government have provided us with the response to important points that the Delegated Powers and Regulatory Reform Committee has made, and that is not particularly satisfactory or helpful.

4.15 pm

It is imperative that the Minister sets out for the record the role and duties of the market operator as the Government view it. In response to my raising this matter at Second Reading the Minister said that the equivalent body in Scotland is the Central Market Agency, but Scotland does not have the upstream competition proposals that we may have, so it is not an exact parallel and the role of this market operator may change in future as the plans for upstream competition develop.

If my reading of this clause is right, the market operator will be subject to the codes that will require the affirmative procedure. But given that the role of the market operator may change as I have just described, the Minister should assure us that the role and duties of this new market operator do not require a separate scrutiny of this company that may yet get statutory powers. I invite the Minister to set out in more detail the role and duties of this market operator.

Lord Whitty: My Lords, I thank my noble friend Lord Hanworth and the noble Baroness, Lady Parminter, for drawing our attention to this aspect of the reform.

It is passing strange that, in one of the very nice charts that the department produced and on which we have been congratulating it, it is clear that this market operator is the key to how the situation will play out in practice. We are setting up a market that does not exist, and we are trying to create and sustain it in a way that on the one hand gives the Secretary of State certain powers and on the other Ofwat certain powers, building on its existing ones.

Nowhere in this legislation are there any specifics about this market operator. As my noble friend has found out—I did not know this and I am not sure if any other noble Lord knew—there is a 61-page document on Open Water's website telling us what it is doing. Having tried to fight my way through that document I am not sure that I am any better informed. Nevertheless, it is clearly an important body. The noble Earl, Lord Selborne, may be right that the Secretary of State should not be laying down precisely how it operates.

The Minister owes it to the House at least to put on the record what the Government expect of this organisation. It has very wide functions. It is crucial to how the market is going to operate, and has fairly substantial powers in terms of dealing with relations between existing companies and with the regulator. This is absent from the legislation, in even the mildest form. That is a bit bizarre. Its objectives include registration and switching; financial settlements; market governance; slightly ambiguously, the enforcement of codes—certainly their operation and administration—and the operation of the industry database. It is owned not as a separate, independent stand-alone company, but by the operators in the industry, which are nine regional monopolies, or eight if Wales is not involved; I am not entirely sure about that. It will allow new entrants to come in, which is jolly good of it. It is not entirely sure whether potential new entrants also have a role in this in relation to the market operating well.

The organisation's relationship with Ofwat is not clear. It is not owned by Ofwat, which it says explicitly. It is not a subdivision of Ofwat, but is it a contract from Ofwat? Is Ofwat giving these responsibilities to that organisation that is then run by the industry, in the way that the noble Earl, Lord Selborne, describes? If so, are that responsibility and contract ever contestable? There are a lot of questions here. In some ways, the powers and responsibilities that it has, and the governance that it appears to have, would have been familiar to 18th-century economists. They would probably have called it an institutionalised cartel. I am sure that is not what the Government intend, but the way it is described in these documents tends to suggest that it is a fixed market and not as open as the Government like to claim.

Leaving aside one's anxiety about this issue not having even the slightest mention in the legislation, before we finish our consideration of the Bill the department and the Minister need to lay out a little more precisely how this body will be set up, how it will operate, to whom it is responsible and how its performance is to be judged. Therefore, although these are basically probing amendments, I support the intention behind them.

Baroness Northover (LD): My Lords, I have no interests to declare except as a frequent user of water and sanitary facilities and, therefore, I am extremely grateful that we do, indeed, have both.

Amendment 2, moved by the noble Viscount, Lord Hanworth, seeks further clarification about the market operator. At his request, I will do my best to be clear and not add to the bamboozlement that he referred to. I say to my noble friend Lady Parminter that we are very grateful to the Delegated Powers and Regulatory Reform Committee for its careful consideration of the Bill. We will respond in due course and make sure that noble Lords receive a copy of the Government's response.

I am most grateful to the noble Viscount, Lord Hanworth, and to my noble friend for tabling their respective amendments and thus for giving me the opportunity to discuss the market operator, clarify its role and purpose and, I hope, set their minds at rest about any concerns they may have. The market operator will be a company limited by guarantee that will initially be set up by Ofwat. Incumbent water companies and licensees that will operate in the competitive market will own and manage the market operator. As noble Lords will know, Ofwat is accountable to Parliament and has a primary statutory duty to protect customers as well as powers to take action against anti-competitive behaviour under the Competition Act. Ofwat will oversee the overall operation of the market and ensure that it is working in the interests of customers, with powers to intervene if the market operator were acting in any way that was anti-competitive. For example, Ofwat could take action against the market operator under the Competition Act 1998 if its activities were disadvantaging customers.

I should make it very clear that the market operator is solely a facilitator with an entirely administrative role. Despite what the noble Viscount, Lord Hanworth, said, it is not a regulator. The market operator will hold a register of premises eligible to switch. It will also facilitate switching and financial settlement between incumbent water companies and licensees. Ofwat will be involved in developing the licence conditions that will set out how licensees and incumbent water companies must interact with the market operator. Market codes may also be used to set out some aspects of these arrangements. The market operator does not in itself have any formal statutory roles.

Looking somewhat wider than the Bill—I see that the noble Viscount, Lord Hanworth, looks perplexed—I hope that the following remarks may be helpful. There are other examples of such companies set up in retail markets—for example, in the gas and electricity retail markets. Perhaps the noble Viscount needs to look at some other 60-page documents in relation to other utilities. The Metering Point Administration Service company administers switching in the UK electricity market and Xoserve does the same for gas. These are not exactly household names because they do not come into contact with the public. They are private companies set up for and by participants in regulated markets to operate silently in the background. None of these companies was established under statute and none has had its respective remit set out in legislation or by the Government.

[Baroness Northover]

The water industry and regulators have already set up a company limited by guarantee called Open Water Market Ltd. The noble Viscount has clearly done a lot of research on this matter. The company will initially be a vehicle to take forward the delivery of the Open Water programme, which is establishing the retail market on behalf of the Government, Ofwat and the industry. A decision will be made in the coming months on whether this company or another one will be established as the market operator for the retail market that goes live in April 2017.

The market operator will be governed by its articles of association and will be accountable to its members, which will be the incumbents and licensees that it serves. As a limited company, it will be subject to the provisions of the Companies Act 2006 and will have to prepare accounts and reports in accordance with that Act. Decisions will have to be made in the future on whether the retail market operator or another body should operate in the upstream market. If there were to be an upstream market operator it would not have roles around the inputting of water or withdrawals of sewage that would properly fall to the Drinking Water Inspectorate or the Environment Agency. The market operator's role is likely to be limited to registering arrangements and verifying quantities of water input and consumed to facilitate financial settlement arrangements. An example of such a market operator in energy is Elexon, which facilitates settlements for the electricity generation market.

I shall comment on a point made by my noble friend Lady Parminter about market codes being subject to the affirmative procedure and explain that market codes will not be subject to any parliamentary procedure. The regulations under Clause 12 are subject to the affirmative procedure and these codes will be subject to consultation. If my noble friend needs further clarification we can provide that.

Coming back to the issue of what the market operator is, I conclude by saying that the market operator will not have any statutory roles, duties or responsibilities within the retail market of the sort that would need to be set out in regulations. I hope that I have clarified that. It will handle routine transactions and communications between incumbents and licensees to help them to meet their statutory and regulatory obligations, as prescribed by legislation, codes and their licences. The market operator will not take over any responsibilities that properly belong with the incumbents, licensees or regulators. I hope that I have provided some elucidation to noble Lords. Obviously we would be happy to provide any further elucidation that is required. In the mean time, I hope that the noble Viscount will be content to withdraw his amendment.

Viscount Hanworth: I thank the Minister for that explanation. She has told us that the market operator is intended to operate silently in the background but I am not sure that that justifies the complete silence of the documentation we have received about the market operator. This is a fundamental part of the architecture of the water industry as it is intended to evolve so the lack of any mention of it in the principal documents is extraordinary. I have made that point rather forcefully but I shall withdraw the amendment as it is a probing amendment. I hope that others will also voice an opinion about the extraordinary lacuna that we have in the documentation if not in the legislation. I beg leave to withdraw the amendment.

Amendment 2 withdrawn.

Amendment 3

Moved by ***Lord Whitty***

3: Clause 1, page 2, line 20, at end insert—

"(e) the Consumer Council for Water or other appropriate statutory consumer body"

Lord Whitty: Amendment 3 is the first of a number of amendments that we will propose from the Opposition Front Bench on engagement with the Consumer Council for Water. It is important to recognise that one of the main players in the water sector has been the Consumer Council for Water. The Minister referred to me bringing in the 2003 Bill, which was when we took the Consumer Council for Water out of Ofwat and made it an independent, self-standing, statutory consumer body. While there has been a lot of change in statutory consumer bodies over the years, the consumer council has played an important role. While it has supported the regulator's focus on the consumer, it has also challenged it. There has been a reasonable relationship between Ofwat and the consumer council. In recent years, Ofwat has encouraged some greater sense of responsibility on the part of the water companies and set up consumer challenge groups, which have fed into the boards of those companies. The Consumer Council for Water has helped to facilitate that. It is therefore important that that relationship is fully institutionalised.

4.30 pm

In many ways, given that water is an essential part of our lives, including for individuals, families and businesses, the consumer end should be fully represented in all processes. The Consumer Council for Water is in a good position to do that and its role should be reflected in the Bill. At some points it is reflected in the Bill, but not at others—or not fully. The Minister may say that the amendment is flawed because it refers to the Consumer Council for Water, whereas the rest of the Bill refers simply to "the council", which in the glossary of terms means the Consumer Council for Water. I have used the formulation in the amendment in case of any change in the statutory status of the consumer council because there are fairly rapid changes in that area, as I well know.

One area in which the council is not involved, and in which it is not listed as a consultee, is the granting of licences to the water undertaker in the first place, which is covered by this clause. I am not in any sense suggesting that the Consumer Council for Water should have a veto over the granting of a licence, but it should be one of the consultees before a licence is given, renewed or modified. For that reason, I tabled the amendment. I hope that the Minister will see the logic of what I am saying. It is part of the need for a much wider consumer dialogue within the water sector so

that consumers understand the enormous and complex needs of the industry, and the management and regulation of the industry takes full account of the consumer voice. I beg to move.

Baroness Northover: My Lords, I thank the noble Lord, Lord Whitty, for tabling these amendments. The Government recognise the significant role that CCWater plays in the industry by representing water and sewerage customers in England and Wales. The noble Lord made that case cogently.

However, these amendments concern the licence authorisations that relate to inputting water to the network, and the noble Lord is clearly well aware of that point. This means that they relate solely to the relationship between water supply licensees and the incumbent water companies, rather than that between licensees and customers. Before issuing a wholesale or supplementary authorisation, Ofwat must consult the Environment Agency, Natural Resources Wales and the Drinking Water Inspectorate. This is not least because they can provide intelligence on any prospective licensees that are trying to operate in this area. The purpose of this is to ensure that these parties are fit and proper persons for the purpose of operating in the new markets.

We would like CCWater to continue carrying out its valuable work of protecting customers and handling customer complaints. It is worth noting that Ofwat already publishes a notice on its website asking for comments from interested parties before it issues a licence with either a retail or restricted retail authorisation. CCWater therefore has the opportunity to respond on any issues that might affect customers at this point. I hope that any concerns, as identified by the noble Lord, Lord Whitty, can be addressed in that way. I hope that he is reassured by this and is willing to withdraw the amendment.

Lord Whitty: I thank the noble Baroness for those comments. She is right that these clauses deal with the relationship between new bulk suppliers and the incumbents, but that has a significant effect on the nature of the market beyond that. If the purpose of this consultation is to establish whether the newcomers negotiating a relationship with the incumbent are fit and proper persons, one issue is the effect on consumers down the line. I accept that Ofwat is open to people writing in, but why is the statutory consumer organisation not one of those listed to give a view in the first place? We are changing the market, and there should be a consumer view on how that market is changing and who is entering that market. I am looking not for a veto, but for an input. I hope that the Government will think slightly more. It would not cost them that much to add a new paragraph (e) to this subsection, and it would be consistent with what is done later in the Bill—admittedly on parts closer to the consumer—and with the established legislation and regulations. I withdraw the amendment for now, but I would hope that the Government could consider this further.

Amendment 3 withdrawn.

Amendment 4 not moved.

Clause 1 agreed.

Schedule 1: Water supply licences: authorisations

Amendment 5

Moved by ***The Earl of Selborne***

5: Schedule 1, page 125, line 29, at end insert "for the purpose of, or in relation to, its participation in arrangements made by the undertaker for the introduction of water into its supply system"

The Earl of Selborne: My Lords, I shall speak also to, I think, 32 amendments in this group. I am conscious of the fact that my noble friend Lord Crickhowell said that this Bill started hopelessly complicated, and I suspect that I stand charged by him with trying to make it ever more complicated—and I do so. This is because I am asking the Minister to ensure that the threat of moving towards de-averaging—something neither the Government nor any of us want—is not going to be advanced by the fundamental concept incorporated in the competition aspects of the Bill. That concept is the provision of a direct link between an upstream service provider, whether water or sewerage, and a retailer to non-household customers.

The position under the Bill is that the customer can contract directly with a resource provider. This may well bring lower charges to some customers, if, for example, a new entrant is able to offer a water supply at a price lower than the average price that the incumbent water company is able to charge. In a negotiated market, there will be a range of attributes that will favour one supplier over another. That is desirable and helpful. Price is one such key factor. If, as is possible here, large, non-household customers successfully negotiate on price alone—without respect to the other services that we are expecting to be provided in terms of environmentally friendly services, water savings and much else—that will favour one supplier over another. Eventually, this will result in a situation in which we will drift inexorably towards a two-tier market with the principle of average prices for all customers abandoned. It follows that smaller non-household customers and anyone located in remoter rural areas will face increased costs.

If we think that this is a remote possibility, we should bear in mind that it has actually happened already. In Wales, the Shotton case set a precedent that local costs were required to be used in a ruling in setting prices under bilateral deals. I am told that this was a one-off and that it will not happen anywhere else. However, when I hear that it has happened, and that there is a threat, I say that this is the opportunity to make sure that it does not happen again. I am sure that we shall look at other proposals as we go through the Bill to ward off the threat of de-averaging.

This is a fundamental proposal: it requires contracts to be made with the undertaker, with the other two parties participating. The purpose of the amendment, therefore, is to remove the direct link between the provider of resource services and the retailer. It would remove any opportunity for a large corporation to act in a way that was detrimental to all other customers.

Under the Bill as drafted, we could end up with non-household customers paying different prices for the same service within the same appointed area. As

[The Earl of Selborne]
I have said, smaller businesses and non-household customers in rural areas are most likely to be affected. One of the charging principles that I accept in the Bill—I quote from the guidance—is the following:

"No category of customer should be unfairly disadvantaged by the way reform impacts on water charges. A fair and non discriminatory approach to sharing network costs will be critical".

However, the guidance goes on to say:

"Ofwat has a number of tools to limit the effect of de-averaging on customer charges",

and that it will ensure that,

"any marginal charges are introduced in a measured fashion and, above all, that they are in the overall interest of customers".

So we are being assured that Ofwat, under the terms of the Bill—we will come to the codes and the rules later—can deal with this problem.

However, I am not entirely clear that this is the case, and I hope that the Minister can give some reassurance—remembering, of course, that already in Shotton we have seen an example of two-tier pricing that has impacted on other customers in the region. Can Ofwat really be expected to manage the impact of de-averaging to prevent any unfairness between customers, especially rural customers, when contracts for non-householders are made directly between retailers and potential upstream services?

Helpful progress was made in Committee in another place and a strong assurance was given that de-averaging would be prevented through ministerial charging guidance, which would explicitly rule it out. However, that is only a limited assurance when one recognises that if these contracts between the resource provider and the retailer were to be decided under European rather than United Kingdom competition law, the United Kingdom Government's charging guidance would be overruled. So, much as one would take comfort from the ministerial guidance, frankly, it would not overrule European competition law.

I will say again that the purpose of the amendments is to require those with wholesale authorisation to interact with the incumbent water and sewage undertaker rather than with the retailers. I beg to move.

Lord Moynihan (Con): My Lords, my name has been associated with the amendments tabled by my noble friend. He set out his eloquent and comprehensive assessment of the issue of de-averaging and said that he intends to speak further when moving his Amendment 32. There are further amendments. Your Lordships will have noticed that there is a 33rd, Amendment 61 to page 152, line 23—it is tucked away at the back—and will excuse the fact that it is not to the first part of the Bill. However, the amendment echoes the points that have been made so eloquently by my noble friend.

Of course, in many respects, these are probing amendments. However, they have at their heart the significant concern that if de-averaging were to take place some non-household customers, particularly smaller customers in rural areas, could see their charges increased markedly. This could have serious impacts on those non-householders and potential political consequences in some areas.

The prudent way through this would be to remove the direct link that exists in the Bill between the provider of the resource services and the retailer/customer, as my noble friend has pointed out.

What I would like to ask, however, is that the Minister clarify the extent of this issue. We have received advice from Scotland—the economics consultancy Oxera and Scottish Water undertook analysis into the impact on customers, were de-averaging to have taken place in Scotland. Under the Scottish Government's rules, the policy is to rule it out. However, Oxera found that even on very conservative assumptions, many businesses could see their charges rising by at least 25% and, in a fully de-averaged scenario, some customers in Scotland could end up paying up to 10 times their current bill. That is evidence that we have received on one hand.

However, on the other hand, the Bill focuses on choice. Retail services account for something like 10% of the non-household bill—which accounts for something like 20% of the total bill—so approximately 2% of the amount would be in this sector. I would be grateful if the Minister could highlight the seriousness and impact of this issue in terms of its scale. Does he agree with the figures of Oxera put forward by our friends north of the Border, who have done some outstanding work in generating competition in this sector? If so, and if that is to be borne out by the evidence, it underlines how important these amendments are.

4.45 pm

Lord Crickhowell: My Lords, there is something to be said for learning from experience. The fact is, we have the experience of the Water Industry Commission for Scotland, which introduced highly successful arrangements from 2008. It is very clear in its recommendations on this particular point, and in the paper sent to some of us it has taken note of the debate that took place in the other place. It says specifically:

"In our view the prudent course of action would be to remove the direct link between the provider of resource services and the retailer/customer. This would remove any ambiguity that could be exploited by a large corporation to the detriment of all other customers. It would also allow a market to develop that could help in building resilience and improving our environment".

On the front of the paper, it simply says:

"Some of these issues were raised and debated during the Committee stage in the House of Commons but as yet the Government has not been persuaded to accept amendments on the topics of substance we discuss in this note".

Clearly, in the light of the good experience in Scotland and the very firm advice given to us, we need to know why the Government are not accepting the advice. I shall be very interested to hear what my noble friend has to say.

Lord Whitty: My Lords, I speak only because the noble Earl, Lord Selborne, and to some extent the noble Lord, Lord Moynihan, have rather pre-empted my speeches on the next group. Clearly we are on the same page. The reason I did not put my name to these amendments was that I was not entirely clear what they would do. I thought it would be better to establish a principle position on de-averaging and see what the Government thought. Clearly the Scottish experience is important. Given that experience, it is incumbent on the Government to tell us why they are not legislating

in that way for England and Wales, and whether the precise amendments suggested by our Scottish colleagues would work under the Ofwat regime. Clearly the principle is an important one and it is one I will come back to on the next group.

Lord De Mauley: My Lords, these amendments, tabled by my noble friends Lord Selborne and Lord Moynihan, seek to introduce a fundamental change which would narrow the approach to upstream competition in this Bill by removing the link between upstream arrangements and retail arrangements with customers. They would mean that licensees would be able to make arrangements with incumbent water companies to provide water and sewerage services without needing to have a specific customer to consume the water or use the sewerage services through the retail market. The implication is therefore that the market might be established through incumbents tendering for new resources under a so-called single buyer model. This would be a significant change from the regime that has been in place since the Water Act 2003 and which we propose to extend through this Bill.

The current approach provides common carriage rights to licensees who want to provide their customers with water resources or sewerage treatment services using incumbents' networks. Common carriage is the term used when new entrants are given rights to use incumbents' networks to provide services to their customers. A single buyer approach is a very different model with decisions on tendering for water supplies or sewerage services resting with the incumbent. It provides fewer rights and less flexibility for new entrants.

The Water Act 2003 brought in a specific common carriage regime for new entrants to access the public supply system by making water supply a licensable activity. Under this regime, the same licensee that puts the water into the system must supply the retail services to the customer. The Bill reforms the existing regime by allowing different licensees to input water and provide retail services to eligible customers, but still requires there to be a specific customer. There is nothing in existing legislation that prevents incumbent water companies from making arrangements with third-party water suppliers or sewerage service providers to input water into the system or deal with sewerage disposal. Indeed, we are pleased to see that Thames Water has gone to the market to see which third parties could provide it with water in order for it to meet future water resource needs. Potential suppliers to Thames Water do not need a water supply licence to be able to make an input under this tendering process. There is no need to amend the Bill to make it possible for third-party suppliers to sell water to incumbents, should we feel this is the right way to go in the future. Clause 12 is designed to enable this. The Bill also provides for licensees to withdraw waste water and sludge from the sewerage system through the disposal authorisation in the sewerage licence. This could be used by Ofwat to introduce a similar model to a single buyer arrangement in the sewerage market if it feels that this would be appropriate.

Through the Bill, we are seeking to bring in new resources and introduce more innovation into the sector. My noble friends' amendments would allow incumbents to dictate the future direction of upstream markets. This would reduce pressure on those incumbents to introduce efficiencies that will benefit customers and the environment because only those licensees that are able to bid for and win contracts would be able to enter the market. Incumbents rather than customers would therefore determine future upstream markets.

My noble friends have indicated that the main objective of the amendments is to remove risks connected with the de-averaging of water charges. As the noble Lord, Lord Whitty, said, that is something which we will come to in a little more detail in the next group of amendments, but I hope that your Lordships will allow me to say a few words on it now in response to the contributions that have been made. There is a crystal clear steer from the Government in our charging principles that Ofwat must not allow de-averaging that is harmful to customers. Ofwat has all the necessary regulatory tools to enable it to limit the effect of de-averaging on customer charges. Ofwat has clearly stated that it believes that these tools are sufficient. The Government's charging principles make it plain that Ofwat must use these tools to ensure that any de-averaging or cost reflectivity is in the overall interests of customers. Two independent experts have reviewed the issue of de-averaging: Professor George Yarrow for Ofwat and Professor Martin Cave for the Consumer Council for Water. Both experts confirmed that Ofwat can facilitate upstream competition without any de-averaging. De-averaging has not happened in other regulated utility sectors, even though greater proportions of those markets are open to competition, and it is no more likely to happen in the water sector.

I stress again that the Bill puts in place a framework that enables household customers to be protected against any changes to their bills resulting from the expansion of the competitive market. Our charging guidance will explicitly say that de-averaging must occur only where it is in the best interests of customers.

My noble friend Lord Selborne raised the case of Shotton as a legal precedent to support the case that de-averaging is a real risk. It is a complex and long-running case, but I hope I can persuade him that it is a misunderstanding to describe it as a case of de-averaging. Shotton was a very unusual case and it is not appropriate to extrapolate from it more widely. For example, it concerned a discrete system that served only two customers, one of which was served by Albion Water. This is very rare. To give some context, the case only represented 0.01% of Welsh Water's turnover. At the time of the dispute, this agreement was not subject to regulation by Ofwat. The Bill includes measures that will bring all such transfers within the scope of the regulatory regime. Ministerial guidance and Ofwat's charging rules will therefore set out how charges between water companies and inset appointees such as Albion Water should be determined in future.

My noble friend raised the concern that EU competition law might require that indiscriminate de-averaging takes place, affecting both business and household customers. First and foremost, there is no general prohibition under competition law against the use of average pricing. In fact, it is common practice in both regulated and unregulated sectors. The obvious examples are the gas, electricity and telecoms sectors.

[Lord De Mauley]
In each of these regulated, networked sectors, regionally averaged prices have remained the norm. There is no suggestion that this approach is inconsistent with competition law.

My noble friends Lord Moynihan and Lord Crickhowell referred to parallels with the Scottish system where there is no upstream competition. In England, we have a very different market structure and a different set of resource challenges. We are learning from the example of Scotland where it is appropriate to do so but they are different systems and their regulation will accordingly be different. Perhaps we might discuss the Scottish situation in more detail in subsequent groups of amendments.

My noble friends' amendments remove the direct risk of de-averaging but may not lead to a better outcome for customers. They could still see an increase in charges if incumbents introduced overly burdensome standards in tendering contracts or made poor decisions over which bids to accept. Ultimately, incumbents would not be incentivised to make their upstream services more efficient and would continue to be incentivised to make decisions that benefit themselves rather than customers.

Given that these amendments considerably narrow the scope of competition in the sector, I ask my noble friend to withdraw his amendment.

The Earl of Selborne: My Lords, I was not expecting a resounding round of applause from the Minister for these proposals, which are fairly fundamental in tackling the whole concept. Nevertheless, the Committee should look seriously at precedents, such as Shotton, which, the Minister assures me can be ignored because it is almost irrelevant. When we have an example of a court case which has determined that the price of the local supply of water should prevail, there is, I suggest, quite a threat that this could be rolled out on a larger scale. I think we should take note of that.

We are effectively being assured that Ofwat will have the ability to regulate contracts made between the wholesaler and the retailer. We will come later in other amendments to test the extent to which Ofwat has sufficient powers and codes to ensure that these contracts do not ultimately work to the disadvantage of, for example, rural communities and others. I am not entirely clear why my noble friend is so certain that this puts the incumbent in a stronger position than he might otherwise be, because you are effectively getting back to the same position, which is that Ofwat, under the Bill, has to determine any contract.

5 pm

I note that if you allow contracts to be made directly between the wholesaler and the retailer, one of the inevitable elements which will determine that is price—that will clearly be part of the equation. How on earth does Ofwat say you must pay more, if that is the price between two willing parties, only if the undertaker can demonstrate that it will strand some of his assets, so that overheads impact unfavourably on other people served in that area? That is why you cannot allow cherry picking of this sort on a sufficient scale to run the threat of de-averaging and why it is probably essential to have the incumbent as part of the contract.

I recognise that we are going to talk about the threat of de-averaging on a number of other occasions, not least in the next group of amendments. Although I suspect we will return to this concern—I would be particularly concerned that Ofwat does indeed have sufficient powers—I beg leave to withdraw the amendment.

Amendment 5 withdrawn.

Amendments 6 to 8 not moved.

Schedule 1 agreed.

Schedule 2: Water undertakers' duties as regards water supply licensees

Amendment 9

Moved by ***Lord Whitty***

9: Schedule 2, page 127, line 27, at end insert—

"( ) The rules must include provision for and in connection with ensuring that there are no variations between charges, or the amount of charges, imposed by a water undertaker under different section 66D agreements in consequence of the location at which the duty or duties to be performed by that undertaker under such agreements fall to be performed."

Lord Whitty: My Lords, some of the issues covered by Amendment 9 have been discussed in the previous group. I do not entirely disagree with the Minister's response on common carriage, in terms of how water gets delivered and having as broad a range of potential new retailers as possible. However, the outcome seems to be that if you have de-averaged prices, you have discrimination between users. Whether all the structural amendments—some in this group and some in the previous group with the amendment of the noble Earl, Lord Selborne—would be necessary to prevent that, the Bill ought to enunciate that principle. At the end of the day, we do not want a market where the easiest route leads to suppliers cherry picking and to a two- or three-tier market for the final delivery of water to businesses, public authorities and so forth—the non-domestic retail market.

In one sense, Scotland shows us what the benefit to business, and the knock-on effect to the domestic side, has been. It has been not in differentiated prices but in better service, in driving water efficiency both in the delivery and use of water, in better means of dealing with waste water, in better water treatment in specialist cases and in disposal of water and waste. If you put competition wholly on the price side, you will not get those advantages. It will be easy for a supplier, on the supply side, to have a more accessible or more cheaply accessible source of water at the upstream level to bring to its business consumers or, on the demand side, to have a group of businesses and other institutions taking advantage of its terms because they are all fairly close together and all have similar requirements, and therefore there are economies of scale in actually supplying that institution.

I do not think that the Government envisaged—and nor did we on this side—the increasing competition in the retail sector as being primarily about wholesale price. Reassuring noises have been made about Ofwat having the ability to ensure that de-averaging does not take place. The natural drive of the market, however, is likely to make it quite attractive. Unless Ofwat has a clear line, which this amendment would give them, that the wholesale price and therefore the retail price of wholesale water would not be differentiated by location, we will get some differentiation of outcome. We will get cherry picking and we will get distortion. It will hit particularly the more remote rural areas and rural businesses in those areas; it will hit particularly businesses in rundown parts of the inner city, where not many of them are inclined to negotiate deals with the company; and it will hit businesses where it is difficult to see how a new arrangement would work.

Unless there is an overall presumption that there should be no de-averaging then it is quite easy to see how the market would end up with that. It may be that Ofwat's powers would be exerted to prevent that, but this Bill does not require Ofwat to do so. The terminology that de-averaging would exist only if there was an "overall benefit" to consumers makes it quite difficult to assess. You have an example of de-averaging which clearly might benefit the immediate consumers who are benefiting from that de-averaged price, but how do you then assess its effect in the short and medium term on consumers as a whole? It is quite a difficult judgment for Ofwat. If the outcome the Government want is that which has been delivered in other quasi-utility markets—largely it has been—why not actually tell Ofwat to deliver that? Surely it would be easier.

I hope that the Government take this slightly more seriously. It will not necessarily unravel their whole approach to competition in this Bill. It is simply giving Ofwat an explicit duty that will deliver an outcome the Government say they want. The Government should not fundamentally object to this amendment. It may require a bit of back-up along the lines the noble Earl, Lord Selborne, has suggested already, but it requires at least the principle to be reflected in the Bill. Otherwise, we will get cherry picking and we will get discrimination, which is unlikely to drive the kind of efficiencies that we have been praising the Scottish system for delivering. I beg to move.

Lord Cameron of Dillington (CB): My Lords, as this is the first time I have intervened in Committee, I declare an interest as a farmer with abstraction licences. Even though I come from Somerset, my farmland is not yet flooded. However, if the current rains continue, it is unlikely that I will be able to say that on Report.

I want to back up the noble Baroness, Lady Parminter, who said that she could not understand why we had only a week between Second Reading and Committee. This is a very complicated Bill and I am not certain why that particular protocol has been broken on this occasion. I have never had an explanation of it. Maybe I have missed some explanation somewhere, but I think it is wrong. I hope it is not a precursor to a Commons-style approach to Bills, where arguments and the length of discussion are ridden over roughshod.

I strongly support Amendment 9 and the whole question it addresses. It is very important that de-averaging does not take place. I would have supported the noble Earl, Lord Selborne, in his amendments to ensure there are no detriments or de-averaging if I had understood that that was their intention. The noble Lord, Lord Whitty, said that he was not entirely clear what the amendments intended; personally, I could not understand them at all. Anyway, I would have supported the noble Earl had I known.

Water, like Royal Mail, should be covered by a universal service obligation that is amendable only with the permission of Parliament. Water should be a universal right—although clearly there can be exceptions, as with Royal Mail. For instance, I believe that a postman does not have to deliver to a household where he is permanently attacked by a savage dog. The water equivalent of that might be a blatant leak in a householder's garden where the water was going to waste; there could be exceptions.

It is very important, particularly in rural areas, that de-averaging does not happen. I have heard the view expressed that de-averaging is bound to happen with the introduction of competition, especially if that competition eventually moves on to cover domestic premises. I personally hope that it will but obviously we should go softly, softly. I do not see competition as incompatible with de-averaging. It is possible to invest efficiently in the overall infrastructure and still charge your customers competitively, based on an average cost per litre, once the overall infrastructure is in place and the supply of water adequate for the demand. That obviously means we must manage the supply, the overall abstraction and the demand—preferably through universal metering but we have yet to come to those debates.

For the time being, I strongly support the thinking behind Amendment 9. Neither remote nor very remote properties should have to pay more per litre than their urban counterparts. I sincerely hope that the Minister was right, when replying to the previous debate, to say that Ofwat has the power to prevent de-averaging. I sincerely hope that it will use those powers.

Lord Moynihan: My Lords, I have a number of amendments in this group. Briefly, I am very supportive of the way the noble Lord, Lord Whitty, set out the principles and concerns on this. He echoed many of the points made by my noble friend on the previous group of amendments. My amendments focus less on the principles and more on the mechanisms of charging. To limit the amount of your Lordships' time taken in Committee, I intend to pick that up in the context of Amendment 43, on restricted access, and of Amendments 99, 100 and 102, which fit more neatly into Clause 16 and the charges scheme—which I know my noble friend will address when he reaches his group of amendments, led by Amendment 44. I could discuss them here but I think it would assist the Committee to refer to the charges scheme at that point.

In closing, I urge the Minister to take very seriously the concerns on this issue raised across the Committee. As has been pointed out, he mentioned at the conclusion of the debate on the previous group of amendments

[Lord Moynihan]
that Ofwat has powers it can take to protect customers in this context. The Bill also gives Defra the option to issue charging guidance. Given the importance of this, as Members from all sides of the Committee have highlighted, I hope that due account will be taken of those views and that Defra will give serious consideration to the issuing of charging guidance in this context.

5.15 pm

The Earl of Selborne: My Lords, I support this group of amendments and I have put my name to my noble friend Lord Moynihan's amendments in the group. The noble Lord, Lord Whitty, is absolutely right to recognise that the more you put provisions in the Bill that help the Minister in his resolve to prevent de-averaging the better. It cannot do much harm. As you bring in competition, we see all sorts of snares and pitfalls in the way of Ofwat's best intentions to prevent simple pricing determining the advantage. If Ofwat cannot do so—and we are still to test to what extent we find that Ofwat is capable of appropriate regulation of those individual contracts—provision such as that in Amendment 9 will clearly be helpful.

The real danger, after all, is that some retail providers could, for example, be providing excellent environmental and social services. They could be rolling out water butts, helping water harvesting and giving advice on water-saving gadgets. Those do not come free; they cost a bit. If they are competing against someone who is providing just a short, sharp service—the product in question at the cheapest price with none of those frills—we will eventually undermine those whom the Bill is intended to encourage, those with innovative practices that will lead to more sustainable use of water. Although I am all in favour of increasing the range of negotiation, we simply cannot allow the only differentiation to be on charges. That is why I think that the amendments are helpful.

Lord De Mauley: My Lords, before I address this group of amendments, perhaps I may answer the noble Lord, Lord Cameron, and my noble friend Lady Parminter, who asked about the truncated period between Committee and Report. I fear that these things are way above my pay grade and are decided through the usual channels. All I can do is apologise to noble Lords for any inconvenience that that may have caused and assure noble Lords that my door remains open. I will be there to answer questions between days in Committee and between Committee and Report; I hope that I can be helpful.

Turning to this group of amendments, I thank noble Lords for some articulate speeches about a complicated issue. It is one that we take very seriously. As noble Lords said in earlier debates, this is not an easy area to get one's head around. Specifically on de-averaging, when we talk about averaging or de-averaging of costs, we are discussing how best to share the costs of sourcing and disposing of water between customers. Most providers of goods and services average their costs to some extent.

In my view, it makes sense to share the costs of maintaining the network on which all customers rely across all customers, regardless of their location. The network makes up about 90% of a water company's assets, so when we discuss de-averaging in the context of the Bill, we are talking only about charges in the competitive part of the market, which accounts for about 10% of the companies' activity. I think that many noble Lords agree that there could be real benefits from increasing the cost-reflectivity of charges for different sources of water to reflect the environmental costs of supply. That is especially important in water-stressed areas or for business users that use large volumes of water.

Strange as it may seem, at present, there are almost no economic incentives for businesses that use large volumes of water to seek out the least environmentally damaging source of water. Nor are there any economic incentives to encourage incumbent water companies or new entrants to the market to help businesses to identify the most environmentally efficient sources of water. The Bill is intended to change that. Our upstream reforms will encourage competition for business customers and incentivise more efficient use of resources. More efficient use of water resources must be good for customers and good for the environment.

I discussed earlier the measures in place to ensure that householders are protected. In regard to de-averaging, as I said in the debate on the previous group, we are clear in our charging principles that de-averaging must occur only where it is in the best interests of customers. In answer to my noble friend Lord Moynihan, when we issue the charging guidance we will make it clear that there must be robust boundaries on the scope of any de-averaging. In particular, Ofwat will be expected to exert control to prevent the de-averaging of network costs and any negative bill impacts that could arise from this. Any moves to enable greater cost reflectivity will be targeted squarely on water resource costs in the competitive parts of the market. This is where there may be social and environmental benefits from encouraging sharper price signals. The Government are completely committed to maintaining bill stability. Customers have made it clear repeatedly that stability is important to them. We will not permit anything that undermines that stability.

The charging rules that Ofwat makes, within the framework set by the Government's charging guidance, will be flexible. As the situation changes over time, our guidance and the rules that Ofwat sets about charges will be able to respond to the way in which the market evolves. I mentioned earlier that it makes sense to provide a price signal that reflects important decisions about our precious water resources. Using the Bill to ban any kind of price signal would, I suggest, be disproportionate. At the same time, we want to ensure that customer bills remain stable and reasonable. The flexible framework of charging guidance and charging rules will achieve this.

The suggestion was made in the debate that customers could end up paying for stranded assets. This is a regulated sector and the important question of what costs should be borne by customers is one for the regulator. In fact, this point is less about de-averaging than about whether the investment made by incumbent water and sewerage companies is made efficiently and in the interests of customers. No one here, I suggest, would think it right that customers should have to foot

the bill for inefficient investment. It must therefore be right that the regulator has the powers to protect customers from paying for inefficient investment.

My noble friend Lord Selborne asked how Ofwat can enforce rules on de-averaging. The charging rules produced by Ofwat will regulate the price relationship between the incumbent and the licensee. It will be able to set out how incumbents apportion the costs of the network and distribution. In making these decisions, it will need to take account of its duties, which include having regard to rural customers. It will also have to reflect the Government's charging guidance. The Secretary of State can veto Ofwat's charging rules if they do not reflect the guidance.

Noble Lords asked whether rural customers might lose out. Ofwat will continue to have a statutory duty to have particular regard to rural customers and the charging principles that the Government published recently reinforce the protections that will remain for rural customers. They require Ofwat to ensure that any greater cost reflectivity must provide benefits to customers. No customers should be unfairly disadvantaged by the way that reform impacts on water charges. The noble Lord, Lord Cameron, referred to water being a universal right and I strongly agree. Water companies are under a statutory duty to supply and the Bill will not change that fundamental requirement.

I mentioned earlier that both Professor George Yarrow and Professor Martin Cave confirmed that Ofwat has the tools to regulate the upstream market without any de-averaging. The Bill will impose a legally binding framework for the industry and the regulator regarding their approach to the averaging of prices. This view is supported by competition experts. For these reasons, I hope that the noble Lord will be reassured and be able to withdraw his amendment.

Lord Whitty: My Lords, I thank noble Lords who have spoken in support of this principle. On this occasion, I found the Minister's reply slightly confusing. I thought that there were some novel parts and a few red herrings in there. He says he is in favour of robust boundaries to de-averaging then claims in aid Professor Cave and Professor Yarrow who say Ofwat have the powers. However, all the amendment asks is that we make those powers explicit and that we require Ofwat not to discriminate on the basis of location. There might be certain areas where they could discriminate but not in relation to location of either source or customer.

If the Minister is saying that that will happen because Ofwat already has all these duties to ensure everybody is treated fairly, including rural and remote consumers and so forth, why not stipulate what they are trying to do in the Bill, rather than through the interaction of several parts of different codes? The noble Lord's argument about discouraging the use of the least environmentally efficient sources of water was a little unclear. Any individual source of water from a new provider is a very small part of the totality of the incumbent company's activities. Discouraging environmentally inefficient or damaging sources of water will, and should, be tackled through the abstraction regime well before the Minister introduces upstream competition. The noble Baroness, Lady Parminter, and I have amendments to that effect later on. That is, surely, the direct way to discourage environmentally damaging and inefficient sourcing of water at the top end.

At the other end, the requirement of the noble Lord, Lord Cameron, that water should be universally delivered is not only a matter of delivering it but doing so at approximately the same cost wherever you live. That has happened, under various Acts of Parliament, with water regimes going way back to private and municipal companies, through nationalisation and every stage of privatisation. It would be a pity if this legislation, with all its benefits in improving efficiency at the far end of the water chain, were to move away from that basic principle. The Minister has not yet established that there is a good reason for moving away from that, nor that Ofwat's existing powers, important though they are, would necessarily deliver that outcome. We shall probably return to this subject at a later point. For the moment, I withdraw the amendment.

Amendment 9 withdrawn.

Amendments 10 and 11 not moved.

Amendment 12

Moved by ***Lord De Mauley***

12: Schedule 2, page 128, line 24, at end insert—

"(7A) For the purposes of this section and sections 66AA to 66C—

(a) premises which are outside a water undertaker's area are to be treated as being within that area if they are supplied with water using the undertaker's supply system, and

(b) any pipes of the water undertaker which are used for the purpose of supplying premises as mentioned in paragraph (a) are to be treated as being part of the undertaker's supply system (if they would not otherwise be part of it)."

Lord De Mauley: My Lords, I take this opportunity to draw the attention of noble Lords to government Amendments 12, 22, 23, 36, 37, 47, 53, 60, 64 to 73, 75, 77 to 94, 125, 127 to 129 and 147, tabled to Clauses 1 to 21. We have also grouped some linked amendments which appear later in the Bill. These are minor and technical amendments which provide clarity, ensure consistency and correct some drafting errors. I draw your Lordships' attention to two areas which may be of particular interest.

Amendments 12, 53, 125 and 127 to 129 close a possible loophole that could have prevented some non-household customers from switching. Currently, the ability of a customer to switch is linked to its premises being connected to the supply system of the incumbent water supplier in whose area it is situated. In some instances it is possible for premises to be connected to the neighbouring incumbent water company because it is located nearer to the latter's infrastructure. Where this is the case, and we do not want to discourage this, there is a risk that it may not be able to switch to a licensee. For that reason, these amendments ensure that these premises are able to secure the benefits of switching supplier.

[Lord De Mauley]

The other area of interest is in relation to Ofwat's market codes and in particular those regarding adoption of infrastructure in Clauses 10 and 11. Currently, Ofwat has a power to produce these market codes but, following concerns that water companies are not always consistent on the timing or content of the adoption agreements, we are changing this to a duty on Ofwat. This will help to ensure that development is not delayed by uncertainty around these agreements. I beg to move.

5.30 pm

Lord Whitty: My Lords, to be honest I do not intend to challenge any of the Government's amendments, even those that I understand. However, I would ask one question of the Minister. I had expected to see in this group of amendments, although maybe it will come later on Report, a response one way or the other to paragraph 12 of the report of the Delegated Powers and Regulatory Reform Committee, where the dehybridisation procedure—or the procedure to remove the hybridisation procedure—is adopted. It drew the House's attention to that and to how it is being dealt with by the Government. If the Minister is saying that it may come up in a general reply to the committee, I am quite satisfied with that, but I thought that I would raise the matter here as it is in this part of the Bill.

Lord De Mauley: I assure noble Lords that we will deal with all the issues raised by the Delegated Powers and Regulatory Reform Committee, and I am sure that we will accept the vast majority. There are some quite complicated issues in there, which we are working through at the moment.

Amendment 12 agreed.

Amendments 13 to 21 not moved.

Amendments 22 and 23

Moved by ***Lord De Mauley***

22: Schedule 2, page 131, line 17, leave out "terms and conditions of the"

23: Schedule 2, page 131, line 18, leave out "provide" and insert "provides"

Amendments 22 and 23 agreed.

Amendments 24 to 35 not moved.

Amendments 36 and 37

Moved by ***Lord De Mauley***

36: Schedule 2, page 134, line 6, leave out "terms and conditions of the"

37: Schedule 2, page 134, line 7, leave out "provide" and insert "provides"

Amendments 36 and 37 agreed.

Amendment 38 not moved.

Amendment 39

Moved by ***Lord Moynihan***

39: Schedule 2, page 136, line 24, leave out "section 66D agreements" and insert "duties under sections 66A to 66C"

Lord Moynihan: My Lords, in moving the amendment, I shall speak also to Amendments 40, 42, 56, 57 and 59, as well as indicating my support for Amendment 105 from the noble Lord, Lord Whitty, in this group.

The balance between regulation and negotiation in the water industry is crucial to this set of amendments. At the heart of the Bill is the intention to create a market where access is regulated—in other words, the rules of entry are set out very clearly, and must be adhered to by all market participants. I am concerned that in some places the Bill leaves too much too open; it appears to be based on the premise that the parties within the retail market should negotiate between themselves on service and price. In my view, that negotiation could substantially limit the effectiveness of the retail market. Allowing individual parties to negotiate in this way opens the door to current incumbents to discriminate against new retailers by offering them higher prices, less preferable terms or poorer service levels. Alternatively, and perhaps more worryingly, current incumbents could simply be slow in responding to requests for information or services from new entrants; this would be difficult to police.

As the noble Lord, Lord Whitty, suggested, in speaking to Amendment 1, some companies may change their allocations of retail costs to ensure that as little revenue as possible is at risk under the new market arrangements. The result of those changes is to reduce the amount of revenue that is open to competition and, potentially, to reduce the margin available to any new entrant. If allowed to stand, that move by the companies may reduce the level of entry into the new retail market. That would be a very serious issue indeed and, I hope, will not result from this legislation. This is an example of how companies might be expected to react when there is insufficient clarity in how the market will operate.

It is interesting to note the experience and views of the Water Industry Commission for Scotland, which opines that it could be difficult for Ofwat to put a framework in place that will allow the regulator to ensure that there is an effective level playing field for all market participants. It is likely to require relatively draconian rules to be drafted and policed. Notwithstanding those rules, some companies may choose to seek to frustrate the operation of the market or seek to get round the rules or even break them to maximise profit, which could be to the substantial detriment of all customers and, indeed, the environment. Having to negotiate on too many issues could also increase the upfront costs for new entrants, which may deter them from entering the market—or, if the new entrant does enter the market, will increase the costs that have to be passed on to customers. To be effective, a retail market, rather than relying on negotiation, needs all participants to have access to clear and accessible prices and to standard terms and conditions. In regulatory economics, I would describe this kind of access to the market as being regulated rather than negotiated.

In Scotland, the retail market is specifically designed to ensure that there is a level playing field. Scottish Water was required to separate its retail arm on a functional basis but chose to create an arm's-length subsidiary. This has meant that the required governance

code, the document that gives new entrants the confidence that they can compete on their merits with the incumbent retailer, could be less onerous than it would otherwise have been. However, the governance code still requires Business Stream to operate profitably as a standalone entity; the code also requires it to limit the access of Scottish Water's management to its financial and operational information. Scottish Water is not allowed to know about Business Stream's strategy for the competitive market in Scotland. Finally, under the terms of a licence condition, Business Stream is required to publish within 40 business days of offering a new tariff to any customer.

The market and operational codes are common to all market participants. The market operator, the Central Market Agency, handles all switches and aggregates supply information to determine amounts owing from retailers to Scottish Water, which is also required to seek the commission's approval on its wholesale tariffs. All entrants have equal access to all tariffs, even those that are a result of legacy arrangements between Scottish Water or its predecessor organisations and larger businesses. The commission has taken further steps related to the reallocation of supply points from companies that exit the market to ensure that all market participants have the opportunity to compete on a level playing field.

To ensure that new entrants do not face increased barriers and costs when trying to access the retail market, I hope that the Bill can be amended so that it focuses on regulated access rather than negotiation. As such, it would require each wholesale company to publish a wholesale charging scheme; rules that support the level playing field between all market participants to be put in place; and the use of operational and market codes that are available to all participants in each area.

The Government's response to the Defra Committee's pre-legislative scrutiny states:

> "Preventing discriminatory behaviour is critical to providing a level playing field in which new entrants can be confident that they will be treated fairly by incumbent water companies. However, the Government does not accept that a blanket requirement for incumbent companies to functionally separate their retail functions is the best solution to this".

In the light of that, Clause 23 would impose a new general duty on Ofwat to exercise its powers and perform its duties in a way that helps to ensure that no undue preference or discrimination is shown by water and sewerage companies, including against water and sewerage supply licensees. As is usual in industry reform legislation, Clause 43 would also give Ofwat a time-limited power to drive changes to existing licences, including to companies' conditions of appointment, when it considers that those changes are necessary or expedient in consequence of the new statutory provisions. Ofwat has published discussion papers that recognise the important role that such licence conditions play in ensuring a level playing field between existing and new entrant retailers. However, many believe that there is a deficiency in Clause 43 as currently drafted which could be exploited by companies seeking to resist any efforts by Ofwat to make changes to their conditions of appointment—for example, in order to introduce new governance codes.

There are also real risks in leaving such a vital part of a successful market to be developed and possibly challenged through secondary regulation. The burden on Ofwat could be lifted by imposing the non-preference, non-discrimination duty directly on to companies. While general competition law arguably already prohibits such discrimination, enforcing such competition law duties has been shown to be a costly and prolonged process. I am therefore suggesting amendments that, while not requiring functional separation, would make companies' non-discrimination duties directly enforceable by Ofwat, using its existing powers under Section 18 of the Water Industry Act 1991. This would help reduce the cost of implementing the market reform and policing and of enforcing effective competition in the future.

The aim is competition; the aim is choice. The question is how we engage with a process that is clear and straightforward, while protecting consumers. The hurdle is incumbent companies. Many of them can use complex contracts with significant legal fees attached and delaying mechanisms. It is therefore very important that the aim moves towards regulated access with clarity and less emphasis on bilateral negotiations, and that that regulated access is for everybody. At that point, anyone entering the market can plug in and play. There should be no prohibitions put in place as a result of bilateral negotiation. It is for those reasons that I have tabled the amendments in my name. I beg to move.

Lord Grantchester (Lab): I shall speak to Amendment 105 in this grouping and agree with many of the comments in its other amendments, in that they resonate with Amendment 105.

The proposed new clause in Amendment 105 is another technical amendment about how this market is to be made to work. We support the introduction of a market to non-household customers, but remain concerned that the market as currently drafted in this Bill is not up to the function as well as it could be. It is essential in a market to have a fair playing field, where each competitor has the same rules applying to it. I quote the Water Industry Commission for Scotland:

> "To be effective a retail market needs all participants to have access to clear and accessible prices, clearly defined and common levels of service, and standard terms and conditions. Allowing parties to negotiate could open the door for a current incumbent to discriminate against new retailers by offering them less preferable terms, poorer service levels or simply by being slow to respond to requests. This would limit the effectiveness of the market and increase costs for new entrants (and customers)".

Incumbent water companies have a very large advantage, having been in place for many years, and can offer more favourable terms to their own in-house companies than to new entrants. There are many barriers to entry that may become apparent and it is important that the new entrant has the protection with the ability to challenge any that may materialise, and not merely on pricing. This would not in any way cut across the Government's view that a blanket requirement for incumbent companies to separate their operations by function is unnecessary.

The Minister may point out that Clause 23 may do what we are seeking. However, this clause requires Ofwat to secure merely that no undue preference, including for itself, is shown. There does not appear to

[Lord Grantchester]
be a definition of "undue preference" and it is important to show from the outset that all competitive pressures must be fair, and appear to be fair, to the new entrants. The Minister will no doubt point to the market codes that will be issued with the Bill, but evidence that has been provided to us during its passage, such as that from Business Stream, the Scottish water company, suggests that this is not enough.

I hope that the Minister is able to recognise the significance of this amendment that will ensure that the terms offered to existing licences are also offered to new licences and that the regulator is able to pay close attention to such deals. The new market situation in Scotland has highlighted this issue. Without correction, there are grounds to fear that when the market opens in 2017 it will not function as the Minister would hope. As a result fair competition may be impeded, and business will not get the kind of benefits and savings that we would like to see.

5.45 pm

The Earl of Selborne: My Lords, I support my noble friend Lord Moynihan and welcome the tenor of the remarks of the noble Lord, Lord Grantchester.

I think that we are agreeing that common industry codes are critical. No one dissents from that. We come back to the question of the extent to which the existing codes, as written in the Bill, deliver these common codes and standards. New entrants simply cannot be allowed to be discriminated against by incumbents. Without a doubt, we have seen this in other utilities—in the rollout of broadband, for example. It is no coincidence that BT seems always to be on the inside track, so we should not be naive enough to think that the incumbent undertakers are not always going to try to ensure that they see off any competition. Later we will talk about discounts and special charges. These do happen. They need to be regulated and, in so far as these amendments help establish the principle that there should be common industry codes, I welcome them.

Lord De Mauley: My Lords, as noble Lords have explained, the purpose of these amendments is to ensure that access to the retail market is regulated to minimise burdens and make access to the market simpler. I agree that requiring all licensees to negotiate with each of the 21 incumbent water companies to enter the market would represent a considerable burden on the market participants and undermine what we are trying to achieve with our reforms.

Schedule 4 of the Water Act 2003 inserted current new Sections 66A(2) and 66D(2) into the Water Industry Act. These placed the incumbent water company under a duty to make a water supply agreement on certain terms agreed with the licensee or determined by Ofwat. This duty has been interpreted to mean that each individual agreement between an incumbent water company and licensee must be negotiated, or imposed by Ofwat where the parties are unable to agree. Ofwat has produced guidance to facilitate negotiations, but the parties to these agreements could ignore the guidance and come to their own agreement. This is clearly a considerable barrier to entry into the retail market in particular and one that provides unco-operative incumbents with an opportunity to delay the making of agreements, about which the noble Lord, Lord Grantchester, and my noble friend Lord Selborne have rightly expressed concerns.

New Sections 66A and 66D will be repealed by this Bill, and replaced with a requirement that agreements between incumbent water companies and licensees must be in accordance with new, enforceable charging rules and codes produced by Ofwat. This will reduce burdens and costs on all parties, and speed up customer switching when the market expands to include 1.2 million potential customers. Schedule 4 creates the same requirements for sewerage arrangements.

There has been some confusion as to the wording of some parts of Schedules 2 and 4 that might lead some to assume that a licensee will be able to enter the retail market only through a complex series of negotiations with every incumbent water company in England. For example, new Section 66DA states that codes may include provisions about procedures in connection with making a Section 66D agreement. This is not the case. We need some flexibility about allowing a certain level of negotiation in some cases, particularly for the upstream markets; negotiations might address water quality and environmental conditions specific to a locality in a water company's area. We also want licensees to have some flexibility to negotiate innovative new ways of doing things. Market codes will be able to set out the circumstances when such negotiations would be appropriate or inappropriate. I draw noble Lords' attention to new Section 66DA(2)(c) and (d) and new Section 117F(2)(c) and (d).

My noble friend Lord Moynihan referred to functional separation and we will discuss specific amendments on that matter in a little while, and perhaps I can address that at that point. He also referred to the regime in Scotland and the fact that it provides only for regulated access. Scottish legislation is silent on the need for WICS to produce codes to make the market work. WICS took the decision to regulate access to the retail market and Ofwat and the Open Water programme are taking the same approach. It is worth noting that there is no competition in Scotland for wholesale supplies of water. The two markets are therefore clearly not directly comparable.

I am happy to tell my noble friend that paragraph 5 of Schedule 2, which inserts new Section 66E into the Water Industry Act 1991, and new Section 117L, inserted by Schedule 4, already provide Ofwat with powers to regulate these charges between incumbents and licensees, and that Ofwat may make rules about their publication.

The Bill regulates licensees' access to the supply and sewerage systems of the quasi-monopolistic incumbents only. We see no need to regulate arrangements between licensees themselves, as they all start on the same footing. That is competition and it will be left to market forces. I hope that my noble friend will therefore feel able to withdraw the amendment.

Lord Moynihan: My Lords, I am grateful to noble Lords for participating in this exchange of views. I particularly thank my noble friend Lord Selborne for his apposite comments. As he is aware, the Bill anticipates

a relatively large number of codes. The experience of other industries, such as the electricity industry, shows the importance of keeping codes as simple as possible. For example, a single market code could help ensure that any central market system works by applying the same rules to all companies and retailers. Similarly, to help create a level playing field, I very much hope that retailers have a single point of contact with each water or sewerage company. Each company should have a code which every retailer must follow. To me that is an essential prerequisite for operating a successful market.

It is an appropriate moment to echo the comments that have been made on all sides of the House about how constructive, supportive and helpful my noble friend the Minister has been throughout the process since the publication of the Bill, through its early consideration and in the many meetings that he has hosted to provide clarity on this complex measure. I am grateful to him for his comments. I noted that he recognised that there was at least scope for misunderstanding on some aspects of the clauses that are relevant to the amendments that I have proposed. I agree with what he said about the codes which Ofwat may issue under the new Sections 66DA and 117F. They could be used but I am concerned that the current drafting does not adequately recognise the necessary scope that he has outlined. There will be merit in considering in detail what he has said this evening and reflecting on it before determining whether we revisit this subject at a later stage in our proceedings.

I very much appreciate the support of the noble Lord, Lord Grantchester. His comments echoed very clearly the concerns that I have tried to lay before your Lordships' House. This is an important issue. If the Bill is to be enacted and then operate effectively in the market, this is a subject which needs to be absolutely clear. If we can help to improve the position by amending the legislation in order to achieve that clarity and efficiency of operation, we will add value to the Bill. I hope that we will be able to take this away and review whether or not we will come back with an improved amendment at a later stage of our proceedings. In the mean time, I beg leave to withdraw the amendment.

Amendment 39 withdrawn.

Amendment 40 not moved.

Amendment 41

Moved by ***The Earl of Selborne***

41: Schedule 2, page 136, line 36, at end insert—

"(e) principles for determining the provisions that should or should not be incorporated into arrangements of the sort contemplated in paragraphs 5 and 8 of Schedule 2A together with a procedure for making and modifying such arrangements"

The Earl of Selborne: My Lords, in moving Amendment 41, I wish to speak also to Amendments 46, 58, 63 and 114.

We now come to Ofwat's duties. Amendments 41, 46, 58 and 63 all seek to ensure that Ofwat does, indeed, have the powers and the authority under the Bill to deal with some of the issues we have already addressed. Amendment 114, which I will come to, seeks to ensure that no detriment is caused.

Amendment 41 seeks to amend Schedule 2 to the Bill by adding to the four subjects on which Ofwat may issue codes in regard to Section 66D agreements. I remind the Committee that the four provisions in the Bill allow a code to make provision about,

"procedures in connection with making a section 66D agreement … procedures in connection with varying or terminating a section 66D agreement … the terms and conditions of a section 66D agreement, including terms as to the duration of such an agreement … principles for determining the terms and conditions that should or should not be incorporated into a section 66D agreement".

Thus the Bill sets out Ofwat's responsibilities vis-à-vis these Section 66D agreements. Amendment 41 proposes a fifth subject for which a code should make provision and refers to the,

"principles for determining the provisions that should or should not be",

in the Section 66D agreements.

Amendment 46 relates to the rules under new Section 66E on the reduction of charges payable under a Section 66D agreement. The amendment seeks to add the proviso that the case for reduced charges must be based on reduced costs—therefore, discounts would be allowed only where overall costs are reduced. In other words, the amendment seeks to keep the level playing field we have discussed on earlier amendments. Amendments 58 and 63 seek to introduce the same provisions for sewerage undertakers.

The thrust of these amendments is to ensure that Ofwat is under a clear obligation to set charging rules in a way that helps to incentivise water efficiency and the efficiency of other services of environmental, social and economic benefit. It is essential that Ofwat has sufficient powers to prevent discrimination against new entrants by incumbents offering them less profitable terms, poorer service levels or simply being slow to respond to their requests. There are many and insidious ways in which you can see off competition and Ofwat must have the powers to enable it to regulate and monitor these special agreements very carefully. I am confident that the Minister will say that this is already adequately covered in the Bill. However, in so far as these amendments would further strengthen the legislation and Ofwat's hand—we have all agreed throughout our deliberations this afternoon that Ofwat is the key to this—surely they would be helpful in preventing any such discrimination.

Amendment 114 is the so-called no-detriment amendment. It seeks to put on Ofwat a specific duty to ensure that no detriment is caused to wholesale business as a result of retail activities. The amendment ensures that the wholesaler, for example, has no incentive to discriminate unfairly in favour of retailers who are less active in providing environmentally desirable services. I referred to that in an earlier amendment. We can see that if a retailer is actually managing to reduce the demand for water it might no longer necessarily be to the wholesaler's advantage to give that particular retailer the same sort of service as somebody who was less assiduous in selling such services.

[The Earl of Selborne]

The no-detriment provision ensures that the wholesaler is indifferent to the efforts of retailers to improve water efficiency or provide other value-adding environmental services. The operation codes will go some way to setting out the rules of engagement between wholesalers and all retailers. The no-detriment provision will give added protection as it will remove all incentive to discriminate. Extending the duty of non-discrimination to Ofwat, which I accept is already there under the terms of the Bill, will ensure that no undue preference or discrimination takes place. It should help to establish that Ofwat indeed has all the duties that we would require to facilitate competition directly. I beg to move.

6 pm

Lord Whitty: My Lords, my name is also on the amendment to which the noble Earl, Lord Selborne, has just referred. My reason for putting my name to it was very much the point he was underlining. Only by some form of no-detriment clause—some of the amendments go slightly wider—can we protect what is intended to be an outcome of retail competition, which is more focus on energy and environmental improvements at the retail-user end and final delivery. Historically, Ofwat has not been particularly good at being prepared to finance—if that is the word—through the price review, or to give priority in the price review to water efficiency schemes. I think that Ofwat improved a little in the previous price review and it shows intention to do so again in the next one, but the reality is that we have not done very well on that front. The introduction of upstream and, to some extent, retail competition could, if it is not contained, have an effect on improvements in water efficiency at the retail end, and the positive move by Ofwat in recent years to focus on water efficiency could be reversed. I strongly support what the noble Earl, Lord Selborne, has said on the amendment.

Lord De Mauley: My Lords, perhaps I may start by saying that our approach to retail competition is being developed jointly with the industry, along with the England and Scottish regulators, and others. This group is well placed to identify the conditions that will work best in England, capturing any lessons learnt and building on the Scottish experience.

I am not sure how a no-detriment duty would sit alongside the general duty for the Secretary of State and Ofwat to secure that licensees meet their statutory obligations and the conditions of their licences, given that these are set by the existing duties on Ofwat and Ministers. Ofwat is under a general duty to ensure that incumbents are able to finance their statutory functions. This duty enables Ofwat to create the right incentives to ensure that incumbents can benefit from investments that deliver improved water efficiency in their respective areas. It is suggested that incumbents may show preference to licensees that do not concentrate on water efficiency activities. This is addressed through Clause 23, which requires Ofwat to ensure that incumbent water companies do not discriminate in the provision of services. Ofwat is also able to address such issues through its Competition Act power, which incidentally is a power that WICS does not have in Scotland. In England and Wales, both incumbents and licensees are subject to a duty under the Water Industry Act 1991 to help their respective customers conserve water. I would not want to undermine the market for water efficiency services. I am sure that that was not an intended impact of the amendment.

Curbing the licensees' water efficiency activities could also put them at a competitive disadvantage if a similar duty was not placed on the retail side of the incumbent's business. Why should licensees be kept under a duty which potentially curbs their water efficiency activities, while an incumbent's retail business is allowed to operate without this barrier? Amendments 46 and 53, in particular, may be a barrier to licensees working with customers to become more water-efficient because they impose a condition that any new arrangements designed to reduce pressure on networks must not impose any more costs on incumbent water companies. This same requirement is not being placed on the incumbents' retail businesses through these amendments. A no-detriment clause works in Scotland due to its circumstances, having just one incumbent retailer and wholesaler. It simply will not work in the same way in England and Wales. For that reason, I ask my noble friend to withdraw his amendment.

The Earl of Selborne: My Lords, I shall come to the no-detriment clause in a moment. The earlier four amendments deal with strengthening the codes for Ofwat, and I am fairly confident that the more robust the powers that Ofwat has to prevent discrimination the better.

I simply do not understand why, if the no-detriment clause works in Scotland, where there is one undertaker—one company—it would not work if there is more than one. I think that the case becomes stronger, not weaker. However, I will read with some care what the Minister said because I suspect that the whole area of a no-detriment clause is something that we will want to come back to at a later stage. I beg leave to withdraw the amendment.

Amendment 41 withdrawn.

Amendments 42 and 43 not moved.

Amendment 44

Moved by ***The Earl of Selborne***

44: Schedule 2, page 139, leave out lines 31 to 38

The Earl of Selborne: My Lords, we now come to special charges, which I have to admit were a bit of a mystery to me. I did not even realise that they existed. Clause 33(2) on page 81 of the Bill amends Section 142 of the Water Industry Act 1999 so that there is a duty on incumbents to notify Ofwat if they make an individual charging agreement with a customer that is not covered by a charging scheme. In other words, they are special agreements. Ofwat already requires information provided by incumbents about those special charging agreements.

Special charging agreements have the potential to undermine just about everything we have been talking about. Once there is a special agreement, which by its

nature is not a common agreement, it flies in the face of the excellent provisions in the Bill, not least to ensure that there is a level playing field and transparency. We need to establish just how many such special agreements are in place at the moment. Amendment 106 does that. It would amend Schedule 2 to require Ofwat to review existing special agreements and assess the charges payable under these agreements. The purpose of the amendment is to ensure that such agreements that depart from the charging schemes are appropriately regulated in future. I would have thought that that was pretty uncontroversial, and I hope that the Minister agrees.

Amendment 103 requires any future special agreement to be allowed only if a customer has done, or has agreed to do, something that reduces or increases the costs incurred by an undertaker. Such agreement would have to receive the consent of Ofwat. In other words, there cannot be a deal that is specific to that particular customer. We would lose the averaging principle that we hold so dear. New Section 66E(3) is the basis on which Ofwat establishes these special charges. I am keen to ensure that Ofwat first makes it absolutely clear how many special charges exist at the moment and, above all, does not allow any future special charges, unless there is a reason that is transparent, obvious and does not undermine the averaging principle. I beg to move.

Lord De Mauley: My Lords, my noble friend would introduce changes to the way in which incumbent water companies' special charging arrangements for customers operate in the reformed market. Special charging arrangements come about when incumbent water companies depart from published charges schemes to allow discounts on the wholesale element of a water charge where a customer, for example, agrees to do something to reduce pressure on a network or has made a contribution to a capital project carried out by an incumbent.

Amendment 103 would require Ofwat to approve special charging arrangements for licensees before they are put in place. Amendments 44 and 48 remove powers for Ofwat to introduce charging rules under Schedules 2 and 4 that would allow customers who receive discounts to switch to a licensee without losing those discounts. Amendments 106, 131, 166 and 169 will initially require incumbents, within one month of Royal Assent, to notify Ofwat of all existing special charging arrangements that are in place. However, Ofwat already collects and publishes information on special charging arrangements on an annual basis, which means that it is not necessary for the Bill to be changed for Ofwat to obtain details of historical agreements. The amendments would also require Ofwat to make and publish a determination about the appropriateness of these historical charges, publish details of its determination, and control the charges between the incumbent and the licensee as well as the price that the licensee can charge the customer from then on.

As part of the review of price limits for 2015 to 2020, Ofwat requires incumbent water companies to separate out the retail and wholesale components of the charges. Ofwat will be able to assess the appropriateness of such charges during this process and introduce charging rules under Schedules 2 and 4 to ensure that licensees will be able to access wholesale charges at a competitive rate and compete with incumbents on the retail element of the special charges. For example, rules can ensure that costs are properly allocated between the retail and wholesale elements of the special charge. Ministers will also be able to give their views on the content of charging rules.

Importantly, the change introduced by Clause 33 will place incumbents under an enforceable duty to report new special charging arrangements to Ofwat as soon as they are made. Clause 33 comes into force two months after Royal Assent. This provision also requires Ofwat to publish details of these arrangements in its register, which is available on its website. Taken together, Clause 33 and Schedules 2 and 4 deliver most of what my noble friend wants to achieve through his amendments. Like my noble friend, we want to increase transparency around the setting of new special charges to enable the beneficiaries to be able to switch to a licensee and still retain their discounts on wholesale charges, if appropriate. As part of the price review process for April 2015, when new price limits are introduced, Ofwat will be able to assess the appropriateness of existing special charges ahead of the retail market opening. With these assurances, I hope that my noble friend will feel able to withdraw his amendment.

The Earl of Selborne: My Lords, I draw some comfort from my noble friend's response. I think we all agree that special charges represent a potential Trojan horse and are not to be encouraged. In so far as they can be transparent, reduced or even eliminated, that would surely be helpful. I should like to think that Ofwat would trenchantly make it clear that it is not in favour of special agreements, and that any special agreements would be published in a transparent and open way annually, as I understand the Minister says Ofwat does and will do. Above all, Ofwat should make it clear to the industry that it does not expect special agreements to be common practice, and should be countenanced only under exceptional circumstances. With that assurance from the Minister, I am happy to beg leave to withdraw the amendment.

Amendment 44 withdrawn.

Amendments 45 and 46 not moved.

Amendment 47

Moved by ***Lord De Mauley***

47: Schedule 2, page 144, line 1, leave out from "with" to end of line 5 and insert "—

(a) a retail authorisation (whether that retail authorisation is an authorisation of the licensee requesting the introduction of water or another water supply licensee's authorisation), or

(b) a restricted retail authorisation of the licensee requesting the introduction of water.""

Amendment 47 agreed.

Schedule 2, as amended, agreed.

Clause 2 agreed

Clause 3: The threshold requirement

Amendment 48 not moved.

Clause 3 agreed.

6.15 pm

Amendment 49

Moved by ***Lord Whitty***

49: After Clause 3, insert the following new Clause—

"Separation of retail and wholesale activities

Any company granted a water supply licence under section 17A of the Water Industry Act 1991, prior to the passing of this Act, must establish separate legal identities for its—

(a) retail activities, and

(b) wholesale activities,

within one year of the passing of this Act."

Lord Whitty: My Lords, I shall speak also to Amendment 97. I am asking the Committee to consider a rather more radical approach to the structure of this industry. In earlier debates today, there was reference to unravelling some of the accounting structures of companies. Indeed, the Minister referred to the requirement on separate indication of charging by the retail and wholesale ends. We have to remember what was said by several of us at Second Reading. This is a very odd industry. In England, it consists, effectively, of eight regional monopolies, all of which are totally vertically integrated, with high profitability over the years since privatisation. There has also been high investment but there has nevertheless been high profitability for their owners and high dividends have been paid out. There has also been a high level of gearing in order to meet those investments by going to the money markets. Most of them are now owned by international investment funds although in many cases they have had a sequence of owners. However, they retain a close resemblance to the pre-privatisation water authorities.

Over the years, there has been some degree of breaking up of monopolies in other industries, including vertical splits, to encourage a more effective form of competition. The recent report by Martin Cave and Ofwat's own assessment of the situation give rise to suggestions that Ofwat, too, ought to be able to require separation of the wholesale and retail ends of the currently vertically integrated water companies. When we move to retail competition, its major feature is likely to be that the retail arms of other incumbent companies will begin to compete in the areas that are dominated by the historic incumbent companies. To some extent, that has happened in Scotland, where English-based companies provide some of the competition in the non-domestic retail sector.

We would expect those companies to continue, one way or another, to dominate the scene, even if they are in more direct competition with each other. As other noble Lords have said, that means that we have to separate out how those companies operate on the retail side and consider what the relationship between the wholesale water undertaker operation and the retail operation will be. One can do some of that by ring-fencing, separate accounting, Chinese walling or whatever, but we need to consider separation as legal entities or even disinvestment from one company to another. That option is not available to Ofwat or, indeed, the CMA, whatever the performance of companies, the competitive flaws of the market or the outcome for consumers may be. This argument about where to separate quasi-monopolies has applied. We have had many debates over recent years about banking, we have had the situation of the railways and the issue arose at some length during the debates on the Energy Bill. It is horses for courses, but the fact that there is no power to require this, even in a situation which is still pretty well dominated by regional monopolies, seems to be an omission.

There are reasons why Ofwat and successive Governments have not gone down this road, one of the main ones being that it might well frighten off investment. This is a pretty good investment. It has provided a very substantial return to those people who have invested in the English water industry over the past 20 or so years. They have had a pretty good and reliable return. Over the past two price review periods some would say that, particularly because of the over-allowance by Ofwat for the costs of capital, they have had an exceptionally good return on prices which have been designated by the regulator. That is not to say that a change in the circumstances would not cause some hesitation on the part of investors, but the reality is that on whatever basis we operate it will continue to provide a good, safe, consistent return to international investors. For that reason we should discount some of the scare stories that surround the issue of enforced separation.

These two proposals give the Government an option. Amendment 49 would give Ofwat, and by extension the CMA in certain circumstances, the power to mandate separation either for one company, or, following a market review, for all companies operating in that sector. That is a pretty substantial increase in their powers, although it is not very different from what the CMA can do in most markets if it finds that there is a breach of general competition law. The rather softer alternative which I think the Government might well consider more is Amendment 97. That would allow for voluntary separation in certain circumstances or negotiated separation if Ofwat were to intervene in order to enforce better competition and better performance.

Amendment 97 therefore is a minimalist form of separation. Amendment 49 is more draconian. The Minister can probably guess which I should prefer, but in this context I would be happy to see the Government take up either. At some point down the line, the current structure of the water sector is going to have to be challenged more fundamentally than is done by the Bill. If we were to give the contingency power to Ofwat now, or make it easier for the companies themselves or for Ofwat to negotiate and suggest to companies that they should split, that would give us the ability to reshape the industry following the introduction of retail competition even to the degree provided for in the Bill.

I suspect that the Government are going to be deeply resistant to either option, but they are wrong. The structure of the industry is not one which can be

sustained for very much longer. It is one that requires significant investment and we do not want to frighten the investors. On the other hand, we have to face up to the reality that proper competition, meeting both business and household consumer needs plus the very substantial environmental demands on the industry, may well require a more radical solution to the structure of the industry than is envisaged in this reform.

I hope that the Government will at least take this matter seriously. Giving Ofwat some powers in this area would be a significant move forward. I beg to move.

Lord De Mauley: My Lords, I am grateful to the noble Lord, Lord Whitty, for tabling Amendments 49 and 97, which are about an important subject, that of separation, whether legal or functional. Legal separation is what Amendment 49 deals with. The amendment would require the eight licensed water suppliers currently operating under the existing water supply licensing regime—so not the incumbent water companies—to set up legally separated entities for the retail and wholesale parts of their business. It is unnecessary to require these licensees to undergo legal separation. In the current market, such licensees can already choose to offer retail services only. In fact all of them do. In the new market, licensees will be able to offer both retail and upstream services separately.

As drafted, this amendment would not require the legal separation of incumbent water companies, but I understand that that is the intention behind it. Legal separation of the incumbent water companies is usually perceived as a way of preventing them from discriminating against new licensees entering the market in favour of their own retail businesses. This discrimination could be either through the prices they charge or by other non-price forms of anti-competitive behaviour. However, legal separation would not eliminate the risk of discrimination in competitive markets, nor is it the only way to deal with discrimination. Ofwat has a range of tools it could use, for example by making licence changes to govern the relationship between the retail and wholesale parts of the companies. These could go as far as requiring effective functional separation. The Bill also gives Ofwat stronger powers to ensure that it can take action to tackle discrimination and ensure a level playing field for all market participants.

The water White Paper made it clear that we would not drive fundamental structural change to the industry, such as forcing the legal separation of incumbent water companies. We were persuaded by the arguments of water companies and investors in the sector that doing so would reduce the regulatory stability of the sector and put future investment at risk, something to which the noble Lord, Lord Whitty, referred. We must not take risks with a successful model given the challenges we face in building the resilience of the sector and the importance of keeping customer bills affordable.

The Government expect Ofwat and other competition authorities to take firm action to prevent discriminatory pricing or behaviour. This could include requiring undertakings from market participants to address anti-competitive behaviour, for example by introducing functional separation. Furthermore, under Clause 23, the Government have also introduced a duty on the Secretary of State, Welsh Ministers and Ofwat to ensure that incumbent water companies do not exercise undue preference to their own retail businesses, associated licensees or other incumbent water companies on non-price matters. Ofwat therefore has sufficient powers to reduce discriminatory behaviour without there being legal separation of incumbent water companies.

As the noble Lord, Lord Whitty, explained, Amendment 97 would enable licensed water suppliers to choose to specialise in either retail or wholesale services. Clause 1 and Schedule 1 to the Bill already enable this by removing the requirements in existing legislation for suppliers of upstream services also to provide retail services. This amendment is therefore unnecessary to achieve the objective the noble Lord seeks.

Forcing separation would not simply be about costs to investors, it would impact on costs to customers. If the sector becomes less attractive, the cost of capital increases, and increases of as little as 1% can lead to £20 on a bill. We must remember the need to ensure that bills remain affordable. I therefore ask the noble Lord to withdraw his amendment.

6.30 pm

Lord Whitty: My Lords, clearly I am going to withdraw my amendment because the noble Lord indicated in his opening paragraphs that it is in the wrong place to achieve what I thought it might achieve. However, the subject is worthy of further consideration. It is true that Ofwat has a power of functional separation in Schedule 1 but it is only one way round. The amendment would provide for it to be both ways round. It would give some flexibility to Ofwat, but only on functional separation.

On ownership separation, this is such an odd market that at some point some Government will have to consider this. The proposed clause, as drafted and as intended, did not say that we would do it, but it would give Ofwat reserve powers to do it in relation to either one company which was engaged in anti-competitive behaviour—which is wider than simply the relationship between its own wholesale and retail internal pricing system—or across the board.

The power exists and is used by both the European and British competition authorities in almost every other sector—we have required breweries to give up their pubs and banks to give up their retail branches—but water is more protected because it has a sector-specific structure of regulation which has built up, for understandable reasons, from the old nationalised structure into a regionally based oligopoly. It has attracted a serious amount of investment, but at a cost. Part of the cost is inflexible and the Bill seeks to introduce a greater degree of flexibility. I accept that, but, ultimately, you would not necessarily want the structure for all time.

Therefore, although I do not advocate wholesale intervention at this point, Ofwat, as the sector-specific competition authority, needs stronger powers than it currently has. My proposed new clause clearly would not give it those powers, and even if it did the Minister would not accept it. We have a problem with the nature of the industry. It has had some fairly bad

[Lord Whitty]
publicity recently in terms of its levels of profitability, its method of gearing and the way that it treats its customers. There is considerable room for improvement. One potential stick for that would be to give Ofwat wider powers. Indeed, a future White Paper may well address this issue more radically than we are doing today. In the mean time, I shall withdraw my amendment.

Amendment 49 withdrawn.

Clause 4 agreed.

Schedule 3: Sewerage licences: authorisations

Amendments 50 and 51 not moved.

Schedule 3 agreed.

Schedule 4: Sewerage undertakers' duties as regards sewerage licensees

Amendment 52 not moved.

Amendment 53

Moved by ***Lord De Mauley***

53: Schedule 4, page 146, line 43, at end insert—

"(4A) For the purposes of this section and sections 117B and 117C—

(a) premises which are outside a sewerage undertaker's area are to be treated as being within that area if they are provided with sewerage services using the undertaker's sewerage system, and

(b) any sewers or drains of the sewerage undertaker which are used for the purpose of serving premises as mentioned in paragraph (a) are to be treated as being part of the undertaker's sewerage system (if they would not otherwise be part of it)."

Amendment 53 agreed.

Amendments 54 to 59 not moved.

Amendment 60

Moved by ***Lord De Mauley***

60: Schedule 4, page 151, line 23, leave out "the code prepared by the Authority" and insert "a code in relation to which a direction may be given"

Amendment 60 agreed.

Amendments 61 to 63 not moved.

Amendment 64

Moved by ***Lord De Mauley***

64: Schedule 4, page 155, line 25, leave out "fit" and insert "appropriate"

Amendment 64 agreed.

Schedule 4, as amended, agreed.

Clause 5 agreed.

Schedule 5: Extension of licensing provisions in relation to Wales

Amendments 65 to 72

Moved by ***Lord De Mauley***

65: Schedule 5, page 162, line 9, at end insert—

"2A In section 2B (strategic priorities and objectives: Wales) (as inserted by section 24 and amended by Schedule 7), in subsection (4)(d), after "water supply licensees" there is inserted "and sewerage licensees"."

66: Schedule 5, page 163, line 7, leave out "Subsection (1)(a)" and insert "Paragraph (a)"

67: Schedule 5, page 163, line 8, leave out sub-paragraph (3)

68: Schedule 5, page 163, line 23, at end insert—

"(1A) Subsection (1A) is repealed."

69: Schedule 5, page 165, line 15, leave out paragraph 26 and insert—

"26 In section 52 (the domestic supply duty) (as amended by Schedule 7), in subsection (4A)—

(a) after paragraph (a) there is inserted "and";

(b) paragraph (c) and the "and" preceding it are repealed."

70: Schedule 5, page 165, line 17, after "purposes)" insert "(as amended by Schedule 7)"

71: Schedule 5, page 168, line 23, leave out sub-paragraph (4)

72: Schedule 5, page 170, line 23, after "195(3AA)" insert "(the Authority's register: consultation as regards water supply licensees) (as amended by Schedule 7)"

Amendments 65 to 72 agreed.

Schedule 5, as amended, agreed.

Clauses 6 and 7 agreed.

Clause 8: Bulk supply of water by water undertakers

Amendment 73

Moved by ***Lord De Mauley***

73: Clause 8, page 10, line 32, at end insert—

"( ) In this section and sections 40A to 40I "bulk supply agreement" means an agreement with one or more water undertakers for the supply of water in bulk and includes—

(a) an order under subsection (3) which is deemed to be an agreement by virtue of subsection (5), and

(b) any agreement which has been varied by order under section 40A(1)."

Amendment 73 agreed.

Amendment 74

Moved by ***Baroness Parminter***

74: Clause 8, page 10, line 32, at end insert—

"( ) In relation to any agreement for the supply of water in bulk between a water undertaker and a qualifying person—

(a) the Authority and any party to an agreement shall at any time if so requested provide such information as the Environment Agency or NRBW may require in relation to the volume and source of any water to be abstracted or supplied and the timing of such abstraction or supply under the agreement;

(b) the Environment Agency or NRBW may at any time certify to the Authority that it is necessary or expedient for the purpose of—to vary or terminate an agreement, the Authority must seek a variation or termination of that agreement;

(i) conserving, redistributing or otherwise augmenting water resources in England and Wales;

(ii) securing the proper use of water resources in England and Wales; and

(iii) securing the conservation of flora and fauna which are dependent on an aquatic environment;

to vary or terminate an agreement, the Authority must seek a variation or termination of that agreement;

(c) if the Authority is satisfied that the variation or termination cannot be achieved by agreement between the parties within a reasonable time it must by order vary or terminate that agreement accordingly."

Baroness Parminter: My Lords, I shall speak also to Amendment 76. The amendments seek to give the strongest safeguards to the bulk transfer of water in advance of—and, indeed, in the absence of—reform proposals for the water abstraction regime, which we will discuss in subsequent amendments.

The Bill incentivises existing licence holders to sell their water to water companies even when the catchment is over-abstracted. It is welcome that the Commons amended the Bill to require applicants for new water supply licences to consult with the Environment Agency as well as with Ofwat. It is on the existing licences being traded as a result of the reforms making it easier for bulk transfers that I wish to focus with these amendments.

Clearly water companies have responsibilities about deterioration outlined in the water framework directive but, as the head of water resources at the Environment Agency said in evidence to the House of Commons, Clause 12 could even force bulk transfers of water between existing participants that could affect the use of abstraction licences.

To protect the scarce resources, the Environment Agency and NRBW need the strongest role at the beginning of the trading process. At present the Environment Agency can only intervene once damage has occurred. That is too late, and especially so for the controls that we are proposing for a new market. In the Commons, the Government gave statutory consultee roles to both the Environment Agency and NRBW when Ofwat makes an order for bulk supplies. My amendment would give those bodies the right to compel Ofwat to intervene in or terminate a bulk supply agreement which it deems would cause unsustainable abstraction.

The issue is whether the statutory consultee role for the Environment Agency and NRBW when Ofwat makes an order regarding a bulk supply agreement means that Ofwat has to act on what these bodies say, or whether it is just advice or input on whether the supply is necessary or expedient which Ofwat can choose to ignore. Surely we need the Environment Agency and NRBW to be able to require Ofwat to intervene to vary or terminate a bulk supply agreement before unsustainable abstraction takes place. That is what both these amendments seek to achieve. I beg to move.

Lord Crickhowell: My Lords, we come now to one of those probing amendments which, as I said earlier, I have refrained from tabling partly because I found the Bill so complex that I was not sure I was going to get it in the right place. I am not sure that the noble Baroness has got it in the right place, because here we are debating, I thought, Clause 8, and she has referred specifically and entirely to Clause 12. I can understand why the amendment she tabled was appropriate for Clause 12; I am not entirely sure it is right for Clause 8. However, it enables me to address some of the points about which I expressed concern at Second Reading.

Once again, I thank my noble friend Lord De Mauley for the extraordinarily thorough way in which he has dealt with anxieties expressed during the preparation and passage of the Bill. He wrote me a long letter even before Second Reading because I had raised the issues during one of his briefing meetings. He wrote me another letter after I had raised the issues again at Second Reading. This is the only part of the Bill that I had serious anxieties about. I think that these anxieties are almost certainly unfounded. My noble friend's letter prompted me to pull down from the shelves of the Library the Water Resources Act 1991, which I suppose I should have known by heart from the days when I was chairman of the National Rivers Authority. That Act gives the authority the powers that are needed in this respect.

My noble friend also drew my attention to the debates in the Public Bill Committee in the other place, to which I think the noble Baroness referred. During those sessions, Trevor Bishop, head of water resources at the Environment Agency, was questioned on this issue. He was asked about the powers that the Environment Agency has and its relationship with Ofwat. Ofwat is required under the Bill as it is drafted to consult with the Environment Agency. Mr Bishop said:

"We operate a series of tests regarding an application for a licence. First, is there proof of legitimate need? If people apply for a licence on a speculative basis, they are locking up resources that could be used for economic growth or other aspects, so that is quite important. Is it efficient, in terms of the efficient and proper use of water, which is part of our duties under the Water Resources Act 1991? Would it have a negative effect on any other abstractor and is it sustainable with regard to environmental duties? Those are the three principal tests and we would object if it failed one of those".

Then he was asked whether the Environment Agency would have the right to veto any current extraction licences. He said:

"We grant licences, so we have the power to grant or not grant licences subject to those tests. Ofwat is not looking for the power to grant licences; what Ofwat may do, with upstream competition and also, I think, with clause 12, is encourage or even force bulk transfers of water between participants, and that could affect the use of an abstraction licence. If it does so, we would need to be consulted, because a change of use in an abstraction licence could cause a problem for another abstractor downstream by using more water, or it could actually affect the water framework directive. It is important that we are able to protect against deterioration".—[*Official Report*, Commons, Water Bill Committee, 3/12/13; col. 57.]

What I think the Environment Agency is saying is that, yes, it has to be consulted. It is not Ofwat which issues the extraction licences, it is the Environment Agency. Ofwat is obliged to consult the Environment

[LORD CRICKHOWELL]
Agency. I suspect the Minister may also refer to the role of the Secretary of State in giving guidance on the Bill. If there are any doubts about what the respective duties are, I suspect they could be covered in that way.

Partly as a result of the diligence of my noble friend on the Front Bench in trying to foresee all the difficulties I might raise in Committee, I have got to the point where I am almost entirely satisfied that the safeguards are there. However, I will listen carefully to what is said further in this debate. It may be that on later amendments I will have to keep my ears open, but, broadly speaking, I am satisfied. The only additional point on which I should keep my powder dry is the introduction later of the new abstraction licensing regime, and whether that will raise any issues that are not adequately covered here. We will come to that in later amendments anyway. For the time being, I am largely satisfied.

6.45 pm

Lord Whitty: My Lords, I can accept quite a bit of what the noble Lord, Lord Crickhowell, has just said, but it does not deal with the totality of the noble Baroness's amendment, which I broadly support. Amendment 74 deals with bulk transfers which may well be within the context of an existing abstraction licence—it is only change of use if it is used for some other purpose. The Environment Agency does not have a licence control except in terms of change of use. It is an Ofwat responsibility, in increasing upstream competition, to arrange for these bulk transfers. It is complicated but it seems to me that if there is a serious environmental problem, the Environment Agency and its Welsh counterpart need some powers over and above consultation—which already exists—to stop those transfers taking place. I think that is really where the noble Baroness's amendment is aimed.

The consultation rights already exist and the noble Lord, Lord Crickhowell, has spelt this out. In most cases, under the previous regime, Ofwat and the Environment Agency have certainly in recent years reached an amicable agreement. However, there is the possibility of a clash under the new regime, and in those circumstances the noble Baroness's Amendment 74 would be appropriate.

Lord Crickhowell: I am grateful to the noble Lord. I do not have the papers immediately to hand but I have it in mind that if there is a change of use, that prompts Ofwat to have to consult the Environment Agency. I may be wrong on that and no doubt my noble friend will be able to deal with it.

Lord Whitty: If there is a change of use—for example, if you are a landowner with an extraction licence who now, under the new regime, wants to put it into the water system—then the Environment Agency has to give a change of use certificate, and will judge that in the same way as if it was a new extraction licence. So that control is there. However, if it is simply a bulk transfer within existing use and with existing abstractors, then that break is not there. I think I am right in saying that.

Baroness Northover: My Lords, I thank my noble friend Lady Parminter for tabling these amendments. Clause 8 plays an important role in achieving a more resilient water industry by encouraging the bulk transfers of water, or bulk supply agreements, between incumbent water companies and between incumbent water companies and inset appointees. We recognise my noble friend's concern that an increase in bulk supply agreements might lead to unsustainable abstraction, particularly in advance of broader reform of the abstraction regime. We are therefore grateful for the opportunity to explore these issues in further detail today.

We would like to assure the Committee that we are serious about reforming the current abstraction system so that it is fit to face future challenges, and noble Lords are quite right to focus on this point. We are committed to putting in place an effective system that better reflects available water resources and we published our proposals for consultation in December. My noble friend Lord De Mauley will talk about our approach to abstraction reform in more detail shortly, as my noble friend Lady Parminter noted; as my noble friend Lord Crickhowell noted, Clause 12 may also appear to be relevant here.

I shall focus on Clause 8, which introduces new provisions to regulate more effectively bulk water supply agreements by introducing codes and charging rules that will govern these agreements. By enabling incumbent water companies to use water resources more flexibly and efficiently, increased water trading can both build resilience and increase the sustainable use of water resources. It can be particularly useful for water stressed areas and in times of drought. My noble friend Lady Parminter is right that we need to avoid any damage from unsustainable abstraction happening in the first place. Tackling damage after it has occurred can be a slow, difficult and expensive process. We therefore want to ensure that adequate safeguards are in place in introducing this reform to the bulk supply regime. We believe that these safeguards are already in place.

The Environment Agency and Natural Resources Wales are the regulators responsible for protecting and improving the environment and they will continue to control the impacts of abstraction through abstraction licensing. As my noble friend Lady Parminter noted, it has been agreed that Ofwat must consult the appropriate environmental body before ordering, varying or terminating a bulk supply agreement. However, I note her current disquiet at this. My noble friend Lord Crickhowell was more encouraged by the arrangement and is, as he put it, almost entirely satisfied by the correspondence from my noble friend Lord De Mauley, and I trust that my noble friend Lady Parminter has also seen this correspondence. If she has not, we will make sure that she receives it. I note also that the noble Lord, Lord Whitty, is less reassured, and I am sure that this issue will be considered further in the later group, as I have indicated. We all share the concern to ensure that we have a resilient system which does not cause damage.

I remind noble Lords that water companies have statutory environmental duties as well, including a duty under Regulation 17 of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003 to have regard to river basin

management plans when deciding whether to enter into bulk supply arrangements. River basin management plans set out the environmental objectives for the water bodies within a river basin district and how they will be achieved. Each water company also has a duty under Section 37A of the Water Industry Act 1991 to produce a water resource management plan every five years that sets out how it aims to balance demand and supply over the next 25 years.

As I say, my noble friend Lord De Mauley will be addressing abstraction in greater detail in the next group, and in the mean time, I hope that my noble friend will be content to withdraw her amendment.

Baroness Parminter: I thank the Minister for her comments and I thank my noble friend Lord Crickhowell and the noble Lord, Lord Whitty, for their contributions in exploring this debate. It has become clear that the focus is not the new licences, which are covered by effective safeguards, but the issue of bulk trading where the licences have already been issued. It is about whether the new safeguards that have been put in, which give statutory consultee status to the environmental bodies, are sufficient. Ofwat has to consult those bodies, but it is not obliged to act in accordance with what they say. In the absence of the aligned timetables for the abstraction reform proposals and the proposals for the upstream composition, I remain concerned that we need the strongest safeguards. If we are not given satisfactory responses to the issue that we will be discussing imminently, I reserve my right to come back to it. On that basis, I beg leave to withdraw the amendment.

Amendment 74 withdrawn.

Amendment 75

Moved by ***Lord De Mauley***

75: Clause 8, page 11, leave out lines 32 to 38

Amendment 75 agreed.

Amendment 76 not moved.

Clause 8, as amended, agreed.

Clause 9: Main connections into sewerage systems

Amendments 77 and 78

Moved by ***Lord De Mauley***

77: Clause 9, page 19, line 47, at end insert—

""main connection agreement" means an agreement with one or more sewerage undertakers for that undertaker or each of them to permit a main connection into its sewerage system and includes—

(a) an order under subsection (3) which is deemed to be an agreement by virtue of subsection (5), and

(b) any agreement which has been varied by order under section 110B(1)."

78: Clause 9, page 21, leave out lines 1 to 8

Amendments 77 and 78 agreed.

Clause 9, as amended, agreed.

Clause 10: Agreements by water undertakers to adopt infrastructure

Amendments 79 to 86

Moved by ***Lord De Mauley***

79: Clause 10, page 29, line 5, leave out "in relation to" and insert "as regards the consent of"

80: Clause 10, page 29, line 7, leave out "in relation to" and insert "as regards the consent of"

81: Clause 10, page 30, line 46, leave out "may issue one or more codes" and insert "must issue a code"

82: Clause 10, page 30, line 48, leave out "A" and insert "The"

83: Clause 10, page 31, line 13, leave out "a code" and insert "the code"

84: Clause 10, page 31, line 34, leave out "a code" and insert "the code"

85: Clause 10, page 31, line 41, leave out "A" and insert "The"

86: Clause 10, page 31, line 43, leave out from "Authority" to "issue" in line 44 and insert "must from time to time review the code and, if appropriate,"

Amendments 79 to 86 agreed.

Clause 10, as amended, agreed.

Clause 11: Agreements by sewerage undertakers to adopt infrastructure

Amendments 87 to 94

Moved by ***Lord De Mauley***

87: Clause 11, page 37, line 35, leave out "in relation to" and insert "as regards the consent of"

88: Clause 11, page 37, line 37, leave out "in relation to" and insert "as regards the consent of"

89: Clause 11, page 39, line 32, leave out "may issue one or more codes" and insert "must issue a code"

90: Clause 11, page 39, line 34, leave out "A" and insert "The"

91: Clause 11, page 39, line 47, leave out "a code" and insert "the code"

92: Clause 11, page 40, line 9, leave out "a code" and insert "the code-"

93: Clause 11, page 40, line 16, leave out "A" and insert "The"

94: Clause 11, page 40, line 18, leave out from "Authority" to "issue" in line 19 and insert "must from time to time review the code and, if appropriate,"

Amendments 87 to 94 agreed.

Clause 11, as amended, agreed.

Clause 12: Arrangements for water undertakers to take water from other persons

Amendment 95 not moved.

Amendment 96

Moved by ***Baroness Parminter***

96: Clause 12, page 47, line 40, at end insert—

"( ) Before laying a draft of an instrument in accordance with subsection (1), the Minister must publish and present to Parliament draft legislation for reforming the law in respect of water abstraction."

Baroness Parminter: My Lords, we now touch on the issue of the absence in the Bill of any abstraction reform proposals. Amendment 96 seeks to address the issue of the non-alignment of the proposals for upstream competition, which are within the Bill, and those for abstraction reform, which are not. Without the proposals for abstraction reform running in parallel with those that create a market for trading water, there is a significant risk to our scarce water resources. I will not repeat what I said at Second Reading, but suffice it to say that the House of Lords EU Sub-Committee on Agriculture, Fisheries, Environment and Energy and the Environment Agency both concur with the Government's own view that at present,

"significant volumes of water are licensed but unused".

If this water is used as the result, for example, of increased trading in a reformed system, that could cause environmental deterioration.

The upstream competition briefing paper which the Government have helpfully provided for us states that they are aiming to legislate for abstraction reform early in the next Parliament. My amendment would merely give statutory backing to that commitment by this Government and would tie future Governments to abide by it. Requiring the Minister to draft public legislation to reform water abstraction will give clarity to parliamentarians about the shape of the abstraction reform proposals prior to their scrutiny of the regulations that will govern the new market in upstream competition, which the Government say could come into force by 2019. I hope that the Minister will agree that this amendment is one way—I accept that it is only one way—of reflecting the Government's stated commitment to delivering reform in a timely and coherent way. That can be secured only by aligning the proposals for upstream reform, which are in the Bill, with those for reform of the abstraction regime, which are not. I beg to move.

7 pm

Lord Cameron of Dillington: My Lords, it seems strange to be talking about possible water shortages and abstraction reform in one of the wettest Januarys since records began. I remind noble Lords that January is named after the Roman double-headed god, Janus. If one head is pointing to the climate change extreme of floods, the other is undoubtedly pointing to drought.

I am not certain that either this group of amendments or the previous group totally grip the issue of likely water shortages and the much needed reform of the abstraction regime, which should be put in place as soon as possible. One of the lessons of the disaster of the Somerset Levels is that we should not wait until disaster strikes before taking action and rushing through reforms. At one of the side meetings last week, which many noble Lords attended, we heard that improvements in water supply and demand take a long time. We heard, for instance, how the mere extension of a reservoir in Essex took 20 years to arrange—10 years to prove the case and 10 years to get the planning through. Equally, universal metering, on the demand side—which of course is worth several reservoirs and is not dependent on rain—would also take a very long time to achieve, particularly if we are to bring consumers along with us, which is very important.

To avoid the likely dire situation that we will have in the future, we should use the Water Bill to ensure that disaster does not strike some time in the future. The dire situations relate to population increases, more demand for energy—energy is a huge user of water, as I am sure many noble Lords know—and more droughts, which are very likely. All these factors require greater flexibility in the management of our abstraction regime.

There are parallels with the energy industry. Some of us were dealing with the Energy Bill at the end of last year and tried to ensure that in the next 10 or 20 years' time there would be a sufficient balance of supply to demand within the energy industry. All the time, we were aware that 10 years ago no one had looked carefully at this balance of supply and demand. We are quite likely to face power cuts in the next couple of years—as many noble Lords are aware—because of this lack of forethought in the past decade.

During the passage of the Energy Bill, my noble friend Lord Oxburgh, who I am sorry to see has left his place, tabled an amendment to establish a council of wise men who would look at the energy industry in the long term, see what was needed and ensure that the right precautions were in place. If the water industry had a group of wise men now, they would be telling us to put a road map in the Bill to take us as speedily as possible towards overall abstraction reform in universal metering and not to wait until the next decade, which seems to be the form, to put this in place.

I agree that abstraction reform is a serious issue. There will undoubtedly be winners and losers in the process whose interests must be given voice in the democratic process. However, I am fearful that Amendment 104, which I am sure the noble Lord, Lord Whitty, will come to in a minute, might put an even greater brake on the introduction of reforms than the long drawn-out process seemingly currently envisaged by Defra. If I have misunderstood Amendment 104, I look forward to being corrected. In the mean time, I strongly support Amendment 96 in the name of the noble Baroness, Lady Parminter.

Lord Crickhowell: My Lords, the noble Lord, Lord Cameron, asked if it was right to discuss the possibility of drought in the middle of floods. I can assure him that it is absolutely right. My experience in the NRA was that, whenever we had a flood it was almost immediately followed by a drought, and whenever we had a drought it was almost immediately followed by a flood. It was an almost invariable rule, so I am sure that he is right that we should be addressing these issues.

When speaking to my noble friend's previous amendment, I said that the one area to which I might want to return was reform of the abstraction licensing regime. I spoke about it in some detail at Second Reading and I do not want to repeat what I said then. It was one of the central problems that we had to deal with in my time in the NRA.

I disagree with the noble Lord who has just spoken when he says that the Government should get this issue into the Bill and that it is very urgent. My understanding is that the Government are getting on with the kind of review and detailed discussions with

just the sort of people that he suggested they should be meeting. However, they have pointed out that the issue is extremely complicated and cannot be rushed. While I, perhaps on the basis of experience, have always been one of the first to criticise the timescale on which some government departments operate, I have a good deal of sympathy with the need to take adequate time on this. This view was reinforced by the fact that at one of the briefing meetings, the representative of—I think—Anglia Water told us that it was undertaking fairly basic research into the resources available in the region. It was suddenly brought home to me that we do not know a great deal about the availability of ground water resources in many of our regions. We know how much water is going down the rivers, but we still need quite a lot of information before we have the kind of policy that we all want to see.

While we must get on with it, I am not sure it is right to think that we can put into this Bill the requirements that will follow the result of this important inquiry and examination. However, my noble friend Lady Parminter is right in thinking that there should be safeguards in the Bill so that when the results of the review come through, we can be certain that the necessary steps and measures are taken. I am not sure how that should be drafted or whether the noble Baroness has got the drafting quite right, but I sympathise with her desire to write safeguards into the Bill so that we are not left with a great gaping hole when we get the results of the very important review that is under way. I will therefore listen with great care and interest to what the Minister says in reply to this debate.

Earl Cathcart (Con): My Lords, I declare that I farm in Norfolk, I live in a band H property, I have a bore hole for domestic use and I have spent about 30 years working and underwriting in the London insurance market.

I want to talk about two aspects. One is bringing all abstraction licences in line with today's rules, conditions and requirements, and the other is abstraction charges.

At Second Reading I said that,

"it is cackhanded to be bringing in upstream competition in water trading before the existing water abstraction system has been reformed, given that the Environment Agency says that many rivers are already overabstracted and overlicensed".—[*Official Report*, 27/1/2014; col. 1025.]

Just about everybody agrees that reform is sorely needed. The question is when it should take place. Many are impatient for reform, and I include myself, but the Government, in their handout, *Upstream Competition and Abstraction Reform*, say:

"We should not rush this: if we get it wrong, there will be real consequences for a range of business and industry, including farmers, food manufacturers and the power sector, as well as the environment".

Quite so—they do not want to throw the baby out with the bathwater. The handout goes on to say that any abstraction reform will take place "in the early 2020s". That could be 10 years away, which, to say the least, is disappointing.

Is there anything that we can put into this Bill that will help improve the current system? I believe that there is. My noble friend Lord Crickhowell mentioned Trevor Bishop, who is head of water resources at the Environment Agency. When he gave evidence to the Commons Committee, he said:

"Most of the damage due to over-abstraction is because the licences were passed a long time ago".—[*Official Report*, Commons, Water Bill Committee, 3/12/13; col. 63.]

The older licences are still allowed to abstract, regardless of whether water is abundant or scarce, but there are restrictions on newer licences. The hands-off flow condition allows the Environment Agency to reduce or stop abstraction altogether if river and ground water levels fall, but this does not apply to the older licence holders—the vast majority of total abstractions. This puts newer licence holders and, indeed, the environment at a disadvantage. Surely, the first step should be to bring all licences up to date with modern requirements, especially the hands-off flow condition and, indeed, any other condition deemed necessary. I would like to see a provision in the Bill similar to the proposed new paragraph (c) in Amendment 74 in the previous group, which says that if the variation,

"cannot be achieved by agreement",

the authority can vary the licence by order or terminate it. This would bring all licences in line, protect the environment and give flexibility to vary all licences as and when necessary. It would also bring this in now rather than waiting for 10 years

The next thing is abstraction charges. I looked at the Environment Agency website, which lists eight charging regions in England and one in Wales. There are two charges: the standard charge and the environmental improvement charge. The environmental improvement charge is different for water companies and for non-water companies, which I presume includes energy companies. The standard charges are not standard at all—they vary region to region. Of the eight regions in England, the Anglian and Northumbrian regions are charged the most, at about £28 per 1,000 cubic metres of water, while the north-west region is only charged about £12.50 per 1,000 cubic metres of water—less than half. Why is there this variation when it is called a standard charge? The Minister might say that the Anglian region, being in an environmentally sensitive area, attracts the highest charge in the country to cover the costs of managing the resources available. However, here I got muddled, because that is surely an environmental issue, and any extra charge ought to be levied under the environmental improvement charge, not the standard charge. Can the Minister explain?

I move on to the environmental improvement charge for non-water companies. Again, the Anglian region pays the most, at £13.71 per cubic metre of water, which is what one might expect, given that it is an environmentally sensitive area. The lowest environmental charge is 62p, for the Yorkshire region, while two regions—the Midlands and Northumbrian regions—pay no environmental improvement charge at all. Why? I do not understand the logic behind the charging and would like the Minister to explain.

7.15 pm

When it comes to the environmental improvement charge for water companies, of the eight regions, only two—the north-west and Thames—pay any charge at

[Earl Cathcart]
all. Again, why? As water companies account for more than 50% of all water abstracted, should they not be contributing at least their fair whack of any charges?

I apologise to my noble friend for asking all these questions. I am not expecting an answer today—that would be too much—but perhaps he could write to me on this. While doing so, perhaps he should consider whether the entire charging system needs reviewing: not so much the standard charge—although it would be nice if it was standard—but the environmental improvement charge in particular.

I think we are missing a trick here. If the Bill is about better management of our water resources and the protection of the environment, why does the environmental charge not reflect this? For instance, when there is an abundance of water, the charge could be relatively low, but as water in each catchment area becomes scarcer, the charge could be ratcheted up, thus making it more financially prohibitive to abstract when it might harm the environment.

Lord Whitty: My Lords, I have Amendment 104 in this group, which touches on exactly the issue that the noble Earl referred to right at the beginning of his remarks. The essential problem here is that we have two issues: the introduction of upstream competition and the deficiencies in the present abstraction regime. Logically, it would be sensible to have accomplished, or at least set in train, the abstraction reform before we introduce upstream competition. In fact, the Bill gets it entirely the other way round.

The inadequacy of the abstraction regime has been fairly long-standing. I can remember having arguments within Defra when we brought in the 2003 Bill that we ought to have been more radical at that point. Indeed, ever since, the situation in several catchment areas has seriously deteriorated. Although the noble Lord, Lord Cameron, is right that it sounds odd for us to be talking about it in light of the recent inclement weather in most of the country, the reality in the long term is that a lot of our catchments are not in very good condition, either in terms of water resources or of their environmental flow. Abstraction levels and potential abstraction levels have had a serious effect on that.

The Government know this and have undertaken a review of the abstraction regime. It has been rather a long time coming, but they have nevertheless got to the point where they issued a very good consultation paper only last month, which gives two options as to how we could conduct the framework of reform. They could have gone a little further—issues such as charging, which the noble Earl also referred to, ought to be part of this. However, if we are unable to introduce that reform until into the 2020s, and meanwhile we have triggered upstream competition, we are aggravating the position. Once there are new suppliers, they will be looking at new sources. They will be looking at trading licences. In reality, it is not only the abstraction that is taking place that is damaging to a lot of our catchments, but the potential abstraction under existing licences. Many of these existing licences, which we talk about being introduced in the 1960s, are grandfathered rights, which probably existed centuries previously when the demand for water was less and the precipitation was probably even more than we recently experienced.

We have catchment areas that are subject to increased demand at the far end, to increased environmental deterioration and to climate change, and present potential problems for water quality as well as water supply. That problem needs addressing. If existing licences provide for twice the level that is actually abstracted—in other words, less than 50% of the potential abstraction actually occurs—and more people are trying to get their hands, figuratively speaking, on the water to put it back into the system and to enhance competition, then we have got a perfect storm. What, however, if we do it the other way around—if we speed up the introduction of abstraction reform and get the legislation we need? Some of it can be done without legislation, but probably not all of it. For example, the issue of compensation was a major inhibitor on the Environment Agency, as it comes out of the Environment Agency's budget and the Treasury makes absolutely certain that it comes out of your budget. This inhibits the degree to which you can introduce modifications of termination of abstraction agreements. Probably, because it is a property right, that needs primary legislation. We need to move to primary legislation fast. We need to introduce it and you cannot introduce it all at once. It will take a bit of time to introduce it, but we need to start as rapidly as possible.

Once we have an abstraction regime that puts a cap, catchment by catchment, on the amount of water in aggregate that people can extract, and defines that in terms of the flow of the river, the demand on that river, and the potential environmental damage or benefit to which that river contributes, then we can relatively easily within that framework introduce competition, trading, sophisticated agreements of swapping water between one entrepreneur and another and indeed across boundaries of the water company areas. If you do it the other way around, however, you will affect the environment and the supply of water. You will make it much more difficult later to introduce rules in relation to the competition which affect the abstraction licences which exist, let alone new ones.

The Environment Agency is not without some powers in this respect. As we said in relation to the previous group of amendments, at the point of change of use, the Environment Agency can effectively introduce new provisions. However, not all of these will be change of use and if you have an abstraction licence currently, which would allow you to take out twice as much water as you actually need, then only part of that licence would be used for the public water supply system and the rest would remain. In effect, instead of taking 40% of the abstraction you would be taking 100% and only half of that would go into the public supply to provide for additional competition.

Although there are powers for the Environment Agency, they need to be strengthened. The sequence of events needs to be a rapid conclusion of the current consultation on abstraction, and introduction of the primary legislation and other regulations that we need as rapidly as possible over the next few years If we sped it up we could probably do that by 2020, which the department says is probably the earliest date that

we could introduce upstream reform in any case. If we do not have that legislative sequence, we will get to 2020 without abstraction reform being properly implemented, and have all the problems of suddenly introducing upstream competition.

All we are asking in these amendments is to put the order right, put both elements in the Bill, and recognise that we will still need another Bill to do the abstraction reform in detail. I am suggesting that the division between the primary legislation for abstraction reform and the introduction triggering the provisions on upstream competition should be five years. The noble Lord, Lord Cameron, queries whether that actually made matters worse, but that is more or less the timescale the Government are working on for upstream competition in any case, so it does fit. If necessary we can alter that five years, but we need some clear sequence. At the moment the Government are dealing with only half of it in this Bill. The department have started the other half but we need to do them the other way around. I hope that the Government at least accept that principle, even if they are not prepared to accept the noble Baroness's or my amendment tonight.

Lord De Mauley: My Lords, I thank my noble friend Lady Parminter for moving her amendment and other noble Lords for their contributions to this debate. This is, we all agree, a vital area. Amendment 96 would delay regulations under Clause 12 and the market for private water sales to water companies from coming into force until draft legislation is presented to Parliament on abstraction reform. Amendment 104 would introduce a new clause to prevent Clause 1 from coming into force until five years after the Royal Assent of future primary legislation on abstraction reform.

These amendments would delay both the upstream reforms and the retail market reforms in the Bill. We do not think they are necessary. I will explain why. We are fully committed to delivering abstraction reform and we share the views of noble Lords that just because we have had the wettest January on record does not mean that we will not imminently go into drought. We have seen that in recent years. We do not share the view, however, that there are risks in introducing upstream reform ahead of abstraction reform.

The Government and the Open Water programme—a partnership between the industry and regulators—are working towards retail market opening in 2017. Our retail reforms are widely supported by customers, who will benefit from improved customer service as a result of these changes. Non-household customers will be free to negotiate the best package to suit their needs. Customers with multiple sites will benefit hugely from being able to negotiate for a single bill from a single supplier. Improved customer services will have knock-on effects for household customers too.

Upstream reform will be introduced at a slower pace, as the noble Lord, Lord Whitty, acknowledged beyond the 2019 price review. This is because we recognise—and I thank my noble friend Lord Crickhowell, for his expert views which supported this—that upstream reforms will require careful planning and close working between the water industry, regulators and customer representatives. However, it is important to progress upstream reform because the current regulatory model is not delivering the kind of efficient resource use and innovation that we need. This reform will help to keep bills affordable and, vitally, to benefit the environment.

I assure noble Lords that there are sufficient safeguards in the existing regimes to prevent an unsustainable increase in abstraction being caused by the Bill. In order to sell water into public supply, abstractors will need to apply to the Environment Agency or Natural Resources Wales for a "change of use" for their abstraction licence. The Environment Agency can refuse such a request if it will lead to unsustainable abstraction. It can also refuse if it would cause deterioration in the catchment, or apply conditions to ensure that this does not happen.

In addition, Ofwat must ensure that anyone wishing to input to the public water supply system holds the appropriate abstraction licence, and informs the Environment Agency about any trades with other abstractors.

Through this Bill, in Clause 1, the Government will also require Ofwat to consult the Environment Agency or Natural Resources Wales before issuing a water supply licence. As my noble friend Lady Northover explained in the context of an earlier group of amendments, there are also safeguards in the existing regimes to prevent an unsustainable increase in abstraction by water companies for the purposes of water trading or "bulk supply" agreements. I also assure noble Lords that we are completely committed to abstraction reform and the introduction of a new system fit to face future challenges including changing climate and population growth.

7.30 pm

The noble Lord, Lord Cameron, asked about a road map to reform. We issued our consultation on reform proposals on 17 December, as the noble Lord, Lord Whitty, said; he spoke kindly of it. We are working with abstractors and everyone else involved with abstraction to understand their concerns and finalise our proposals. We aim to legislate for abstraction reform early in the next Parliament. During Second Reading, I highlighted just how complex those reforms would be. We must make sure that our final reform package delivers a robust, flexible and future-proofed system. We must also make sure that abstractors across the country can continue to access the water they need to run their businesses.

We have committed—I do so again—to ensuring that the implementation of our upstream and abstraction reforms is carefully co-ordinated. The expansion of upstream water resource markets and the transition to a new abstraction regime will take place on broadly similar timescales. This will enable abstractors to take decisions about managing their water use with good information about how future regulation will operate and the role markets might play in enabling them to meet their water needs. My noble friend Lord Cathcart asked about time-limiting licences. The changes proposed for old-style abstraction licences would be part of the abstraction reform. Significant changes to licences like this would usually involve payment of compensation. The Bill helps with that but there is no shortcut to fundamental reform.

[Lord De Mauley]

My noble friend Lord Cathcart and the noble Lord, Lord Whitty, asked what we are doing now about unsustainable abstraction. Indeed, that was behind what a number of other noble Lords said. We have a twin-track approach. In parallel to developing reform proposals, we are ramping up our efforts to reduce damaging abstraction now by making better use of our existing tools. We continue to work with licence holders to reduce abstractions through the Environment Agency's Restoring Sustainable Abstraction programme. It takes time to do that. We might know that a particular extraction damages the environment but if, for example, that water supplies a major conurbation we cannot just switch it off overnight. Ways of reducing that damage must be considered and alternative sources of water investigated. The Environment Agency will soon use its powers to revoke or vary abstraction licences without compensation where they are causing serious damage to the environment. That follows our recent consultation on how to assess serious damage.

My noble friend also raised an important point about abstraction charges reflecting the value of water. As he suggested, I will write to him explaining the charging system in more detail. However, in brief, the standard charge is the mechanism through which the Environment Agency recovers its costs for managing and regulating water abstractions. The environmental improvement unit charge is used to cover the costs of compensating abstractors where the Environment Agency compulsorily varies or revokes abstraction licences to reduce the risk of environmental damage. The charges differ across regions for a range of historical reasons, including the location of sites in the Environment Agency's Restoring Sustainable Abstraction programme. The Government seek to send better signals about the value of water through the Bill. Our proposals for abstraction reform develop these signals further and aim to introduce a reformed abstraction system that is more flexible and resilient to future pressures. Our proposals also cover abstraction charges and the future use of the environmental improvement unit charge. I thank noble Lords for their patience. I hope that my noble friend will agree to withdraw her amendment.

Baroness Parminter: I thank my noble friend the Minister for his detailed comments and the numerous colleagues around the House who joined in this debate. We face an inadequate abstraction regime that will be reformed at some point in the future and a Bill here and now that will introduce upstream competition proposals that could exacerbate the problems of abstraction. While I thank the Minister for his comments, I do not feel he adequately answered why the Government are not prepared to put wording in the Bill reflecting our concern that there is insufficient clarity at the moment about the timetabling of this issue. My noble friend Lord Crickhowell was kind enough to say he had great sympathy with that point.

I accept that the wording I proposed might not be right. We certainly do not wish to put any barriers on the proposal for reforming the retail market. I am sure everyone in this House agrees that we want to press ahead with that now. However, in the relationship between the abstraction reform proposals and the upstream competition there needs to be clearer timetabling within the Bill. I say to the Minister that we will return to this issue on Report, and in the absence of a sequencing being put in the Bill we will look again at further safeguards that will be required to prevent more deterioration to the environment. Those safeguards will be along the lines mentioned in my previous proposed amendments, which my noble friend Lord Cathcart was kind enough to say that we should look at more seriously, particularly paragraph (c) in Amendment 74. As I said, we will come back to this matter but on that basis I beg leave to withdraw the amendment.

Amendment 96 withdrawn.

Clause 12 agreed.

Clauses 13 to 15 agreed.

Amendment 97 not moved.

House resumed. Committee to begin again not before 8.36 pm.

Standards in Public Life

Question for Short Debate

7.37 pm

Asked by ***Lord Bew***

To ask Her Majesty's Government what assessment they have made of the report of the Committee on Standards in Public Life, *Survey of public attitudes towards conduct in public life 2012*, published in September 2013.

Earl Attlee (Con): My Lords, I understand that my noble friend Lord Phillips of Sudbury would like to speak in the gap. If all noble Lords adhered to three minutes we could accommodate my noble friend. When the Clock indicates "3", a noble Lord's time is up.

Lord Bew (CB): My Lords, the Committee on Standards in Public Life is an independent committee that provides advice to the Prime Minister. Its remit is to promote high ethical standards across the public sphere, not just Parliament. Its first ever report, in 1994, recommended seven principles to guide the behaviour of those who serve the public in any way: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Those principles are popularly known, after the first chairman, as the Nolan principles.

The committee published its fifth general survey of public attitudes last autumn. The committee has conducted the survey every two years since 2004. It is a unique long-term, independent study and source of information about what the public think about standards in public life. The issue here is general probity. It is important to check our perception of the standards that the public expect of public servants and organisations, and the extent to which those are being met, against reality. We cannot afford to assume that we know what the public really think about these issues.

The survey was published at a time when a variety of research showed an increasing disengagement from the political system and some national institutions seemed to be engulfed in a series of scandals. The apparently—and I stress apparently—engulfing nature of scandals is a particular problem of the modern era. At least in some media discussion the impression exists not just of a few bad apples but that entire institutions lack probity: the BBC, Parliament, the police, etc.

The survey draws on all four previous surveys to chart changes in attitudes over the past 10 years. All surveys have consistently demonstrated what members of the public expect from people in public office. It is: to be committed to public rather than private ends; selflessness and integrity, as in the Nolan principles; to be honest and open in decision-making; to make decisions in the light of the best evidence; objectivity; to be held accountable; and for some senior public figures to lead in some respect exemplary lives—the principle of leadership.

Over the lifetime of the survey, there has been a continuous and substantial decline in the number of respondents rating standards as quite high or very high. In the latest survey, 28% of respondents rated conduct as either quite low or very low. There was also an increase in the proportion of people thinking that standards had got a lot worse. In relationship to Westminster MPs, the public broadly share a set of expectations that are in line with the seven principles of public life. However, they have consistently lower levels of confidence that MPs meet those standards. In the latest survey, pessimism was less marked than in 2010, when attitudes were sharply affected by the then recent events of the expenses scandal, but levels of confidence have not returned to their 2008 levels.

Although absolute levels of confidence are low in particular types of national public officeholders and professions—for example, Ministers, MPs and tabloid journalists—that should be contrasted with higher and rising confidence in institutions, processes and those administering the process. For example, as in most countries that have low and falling levels of confidence in politicians, there is, paradoxically, higher confidence in national institutions such as Parliament itself and much higher confidence in the legal system. For Parliament, it might be argued that there was something that looked like the possible beginnings of a crisis of legitimacy in the 1970s, but there is no sign of such a crisis today

Questions of trust are valuable tracking devices for changes, but there are dangers that we should be alert to in generalising about the public perception of probity. For example, we are sometimes a bit disappointed that only the broad, negative perceptions of MPs are reported in the media. There is a great deal of complex, sometimes counterintuitive material in the research which has messages for those working in public life. For instance, our survey showed a widespread belief that respondents would receive fair treatment from a wide range of front-line public services. Less than 15% of those surveyed expressed concern that they would be treated worse than others, and there are clear messages that the public expressed more confidence in the probity of those working in the public sector as against those working in private services.

The data also give us a picture of those groups who are most likely to feel sceptical and, to some degree, alienated. That is particularly the case for those lower social grades from white British or white Irish backgrounds, middle-aged or older, and who have little engagement with the political system. The growth in the size of that group presents a challenge to all of us involved in public life.

The Committee on Standards in Public Life recognises that it is important to place those findings in a wider context, and it is now doing further research and assessing the results from our British survey compared with those in other countries, to see if results are potentially affected by domestic factors or reflect citizens' attitudes across western democracies in general. We also appreciate that perceptions of trust and public confidence can include a range of issues which have nothing to do with integrity and genuine trustworthiness and are much more to do with the policy process and the process of delivery.

It is important that the public have confidence in the integrity of public institutions and that those who work in them are alert to a certain level of public malaise and, where necessary, willing to challenge the status quo. At a recent committee meeting with academics, there was a wide-ranging discussion about some issues which might address some of those perceptions: whether or not a less adversarial style of politics might help; or whether or not a better level of political reporting would help. An interesting point was made that MPs in the Netherlands considered that they have a role as a public educator. It is not quite as clear that MPs in United Kingdom consider that to be an important part of their role. There were a number of other interesting ideas for discussion and debate.

The broad context is clear enough. Modern politics became less ideological when the era opened up by the Russian revolutions closed in 1989. Politics became, it is often said, more about values and individuals and ideologies, but we still have a gladiatorial style, seen most spectacularly at PMQs, inherited from a more ideological age. The result is a displacement of inevitable popular resentment, which used to have a more ideological form of expression, to individuals in a more modern version of Brecht's socialism of fools.

My committee believes that there is scope to improve and maintain levels of public confidence and trust by public officeholders and institutions by improving their own trustworthiness; by consistently and reliably exemplifying high standards of ethical behaviour, openness and accountability, as our recent report, *Strengthening Transparency Around Lobbying*, discussed; being more attentive to and active in addressing emerging ethical standards issues as they arise, rather than waiting for pressure for reform; establishing and promulgating robust mechanisms to detect and deal with wrongdoing; and creating a culture where high standards are built into everything the organisation does and genuinely seen as everyone's personal responsibility.

Following a recommendation of the committee's recent triennial review and understandable budget cuts across the public sector, that was the last such survey produced by the committee. I must say that since my arrival in the chair in September, the importance of

[LORD BEW]
the survey has been borne in on me in a way that was not the case before, and I began to appreciate its value in a way that I had not before. To have that steady survey over a period of changes and transitions in public mood is, I think, of great value. We regret losing in-depth analysis of the public view, especially when there are signs of disconnect between the public and the political process.

The focus of my committee's immediate work programme will be on working collaboratively with public sector officeholders and organisations to promote and reinforce ethics and practice. We need to increase our understanding of the factors at play in building and maintaining public confidence. I believe that the committee and its research has a role to play in trying to move the debate on from the position so often heard—"They don't get it"—to a different and better position, which is, "What can we do about it?".

7.46 pm

Lord Patten (Con): My Lords, I have long admired the noble Lord, Lord Bew, for his ability to tease out of sometimes very dense language extremely important points, and he has just done so in his speech. Indeed, it was he who inspired me to read the whole of the report, which is dense and curious, sometimes, in its language. The noble Lord referred to the phrase, "the lower social grades"—a slightly grating phrase. I think that Aldous Huxley would have recognised that phrase, with his standard gammas, unvarying deltas and the rest.

That said, as I ploughed through the report, which the noble Lord, Lord Bew, inspired me to read, I became surprised—so I searched the harder—to find no specific mentions of your Lordships' House in a longitudinal study, which strikes me as a major lacuna. There are mentions of all sorts of people—police, judges, and those in the front line giving out advice—but no mention of your Lordships' House. I think that that needs to be addressed in future reports of this sort if we are to have the full value that we should get from them.

I can only make assertions, because there is nothing in this report which will stand up what I am about to say, but does the Minister share the concern expressed by some people in my hearing that there are things wrong with this place which need to be addressed? For example, some people feel that it has got terribly large and therefore is not very effective in what it does. I think that, had questions been asked in the longitudinal survey, we would have got some very interesting answers.

Most importantly, I am convinced—anecdotally; perhaps I listen to the wrong kind of taxi drivers—that the impression of your Lordships' House has gone down sharply in recent years. If there is one thing that has affected that perception it is that a revolving door is still possible between someone becoming a lawmaker, then becoming a lawbreaker and leaving the service of your Lordships' House, and then, having served whatever sentence was given, coming back into your Lordships' House, having been a lawbreaker, to be a lawmaker. You do not have to be a taxi driver to think that there is something a bit rum about that.

I end on the note that something should be done and be done quickly. It always used to be said that nothing could be done quickly about changing the laws of succession so that men and women could be in the right order of birth to become head of state in this country. The blessed Norman St John-Stevas used to stand up and say that it was quite impossible to do. Suddenly, the Zeitgeist changed and it was done. We need to make sure that as the Zeitgeist changes over this issue, the revolving door that goes between lawmaker, lawbreaker and lawmaker no longer exists.

7.50 pm

Baroness Donaghy (Lab): My Lords, I am grateful to the noble Lord, Lord Bew, for initiating this short debate. I was acting chair of the Committee on Standards in Public Life during most of 2007 and a member of the committee when Sir Nigel Wicks was in the chair and the public attitudes survey was inaugurated. I remember clearly how excited we were about the significance of the survey, particularly its long-term tracking of standards in public life.

The main thrust of my contribution is to ask the Government to think again about the withdrawal of funding for the public attitudes survey. I have been in contact with Sir Nigel Wicks and he has permitted me to communicate his "great disappointment" that the Government are withdrawing funding for future surveys. They provide an authoritative and transparently impartial method for tracking public perceptions and expectations of standards in public life. They give all concerned with standards in public life feedback on how the British people view a fundamental element in the working of our democracy. Sir Nigel is firm in the belief that the value of the public attitudes survey could not be replaced by a series of ad hoc surveys, conducted by bodies other than the committee. Such surveys would lack the authority derived from the committee's own authority and knowledge, as well as the continuity provided by the regularity and consistency of the committee's surveys. This would make it virtually impossible to identify trends and changing attitudes.

I can only echo Sir Nigel's words and ask the Minister to consider the long-term implications of the Government's decision to cease funding. The work of the Committee on Standards in Public Life is admired by the rest of the world for its independence and robust defence of standards. It will appear very strange for politicians, who admittedly are not too high on the popularity poll, to take the decision to weaken fundamentally the authority of these surveys.

7.52 pm

Lord Martin of Springburn (CB): My Lords, I, too, am grateful to the noble Lord, Lord Bew, for securing this debate. Our national poet, Robert Burns, often spoke about seeing the good in people. Perhaps we can see the good in people in public life because there are so many who are all too ready to highlight those who do the wrong thing.

However, my thoughts go to the fact that we have thousands of men and women up and down the United Kingdom, including in Northern Ireland, who have chosen to serve in local government for very little

reward. Those men and women hold down their jobs and go to meetings of the council. At night, they attend the public meetings that we have with the housing associations or the tenants' associations. They also deal with what some people would consider to be the little things, such as repairs to the sinks or drainpipes, or cleaning up the play area. A Speaker in the United States, Tip O'Neill, once said that all politics is local. We might call what these men and women in local government do "the little things" but it is important to remember that those things are important to the elderly, the mothers who want a play area to be cleaned up and all the other people who are worried about their community. As those men and women are not here at Westminster, sometimes constituents come to their door and disturb them even when they are having a family meal.

Your Lordships should remember that we often tut-tut when we are in conversation about non-traditional housing: the corridor houses and multi-storey flats in our cities. Not all of those places are bad to live in but because of the climate we have in this country the local authority gets the blame. In the 1960s and 1970s, when those men and women who were in local government wanted to clear the slums away and give people decent homes, it was central government who said to them, "You will not get government funding unless you build non-traditional houses". When the problems arose, the blame lay with local government and the Government distanced themselves from the difficulties.

What I can say about the other place is that there are those who have brought the Commons to shame. We should remember that there are 650 Members of Parliament and that they are excellent at working on an all-party basis. Although I do not have the time, I advise noble Lords to read the adjournment debate which Mr Chris Skidmore raised on dangerous driving, in which dozens of Members from all parties took part.

7.56 pm

Lord Tyler (LD): My Lords, in view of the time constraints I want to focus on just one part of this excellent report. Figure 4.1 on page 22 shows that 26% of the respondents to the survey feel that MPs can legitimately take into account what big donors to their parties want when they cast a vote in the Commons. The committee found in another of its surveys, in 2010, that 81% of the public thought that the most common reason for donating to a political party was either in the hope of receiving some special favours in return—perhaps appointment to your Lordships' House—or gaining access to those taking decisions. This perception that influence and access may be auctioned to the highest bidder is corrosive of our politics and corrosive of public perceptions of standards in public life.

The CSPL rightly concluded in its November 2011 report on party political finance that,

"this situation is unsustainable, damaging to confidence in democracy and in serious need of reform".

The then chairman of the committee, Sir Christopher Kelly, argued that the cost to the public purse of capping big donations to parties would be the equivalent of just one first-class stamp each year for each elector. There is the choice: between each person paying 50 pence for an equal, democratic share of influence over the political system or a few people paying £50,000 a year for a necessarily quite unequal share of that influence. Yes, the public are sceptical about politics and parties but we have a responsibility to make the arguments, rather than shy away from them.

Just a fortnight ago in your Lordships' House, the noble Lord, Lord Campbell-Savours, invited us to show that leadership by proposing the minimum possible reform of the party funding system: the introduction of a very small amount of tax relief for individual donations to parties. He said that,

"the very credibility of this institution is at stake. We have had far too many scandals over the years; political scandals relating to money and politics".—[*Official Report*, 15/1/14; col. 320.]

He was backed up across the House. I particularly want to draw attention to the words of my noble friend Lord Hamilton of Epsom, who said that,

"political parties in this country are financed by the trade unions and, to a very large extent on all sides of the House, by extremely rich men who are seen to exert influence … This does us no good at all and we should grasp this nettle and do something about it".—[*Official Report*, 15/1/14; col. 321.]

I supported him, as did my noble friend Lord Hodgson, who said:

"Someone, sometime, somewhere has to be brave, and we need to give them a nod tonight to get on and be brave as soon as possible".—[*Official Report*, 15/1/14; col. 325.]

I welcome the report of the committee of the noble Lord, Lord Bew, but I worry about the deepening public distrust in politics that is held by our fellow citizens. I endorse strongly what was so many noble Lords have said and I very much hope that we will soon make progress and that our leaders will be brave on party funding because without that, there will be further corrosion of trust in party politics.

7.59 pm

Lord Hennessy of Nympsfield (CB): My Lords, the committee chaired with distinction by my noble friend Lord Bew is the guardian of the seven principles of public life first promulgated by the standards committee in the mid-1990s, under its founding chairman Lord Nolan, as my noble friend reminded us. The most cheering finding in the committee's 2012 survey, which we are debating today, is that the public continue to support those principles to an overwhelming degree.

Should the British people become so jaundiced with those in public and political life that, when asked about the behavioural lapses on the part of their Ministers, officials and legislators, they shrug disdainfully and reply, "Well that's the way they are; what can you expect?", then we would be in deep trouble as a country and a polity. Mercifully, we are still shockable.

However, the Standards Committee report makes for truly depressing reading on the low levels of trust in politicians. But, in my judgment, it is the findings on political engagement which leap most dramatically out of its pages. It is the level of alienation from all parties, big and small, across the spectrum that is searing. Place this finding alongside the Hansard Society's 2013 *Audit of Political Engagement* and the picture is truly grim. The Hansard Society found that, in terms of general elections:

[Lord Hennessy of Nympsfield]

"The number of young people (18-24 year olds) certain to vote has declined 10 percentage points in a year (22% to 12%)".

The reasons for such indifference and alienation are multiple and have accumulated over a decade of historically low general election turnouts.

I will finish by mentioning but one aspect that has long worried me: the language in which we conduct our national political conversation. George Orwell argued, in his classic 1946 essay, *Politics and the English Language*, that if the main instrument of political exchange and argument—language—became stale, clichéd and debased, we would be seriously impoverished. Nearly 70 years on, in our deeply sound-bitten political culture, we have much more to worry about than did Orwell. Between now and the general election of May 2015, can our political class raise its game? Can our politicians find the tone, the pitch and the vocabulary to break through the indifference, especially of those 18 to 24-year-olds? I live in hope.

I have one final thought for the noble Lord, Lord Bew, and his committee, the work of which I have always admired. How about a review of the quality and clarity of language used in government White Papers? That is a question of standards, too. Doing an Orwell on White Papers would be a service to us all.

8.02 pm

Lord Harries of Pentregarth (CB): My Lords, before turning to the survey in more detail, I would like to make some brief points of a more general nature about the seven principles of public life. First, these principles are absolutely fundamental to the healthy functioning of any society. Without them, a society can only be regarded as sick and it certainly would not function as it ought. Secondly they exist in their own right, valid in themselves, with a claim upon us. They cannot simply be read off or derived from any scientific or economic description of society. That is why, if I am honest, I think the word principle is a somewhat weak term. We could, for example, say things such as, "I am going go run the organisation along the following principles", as though these were guidelines I had chosen, when I could have chosen others. However, the qualities that we need for public life are not items in a bag that we decide to choose. They are a sine qua non of any ordered society. For example, if a Minister lies in his private life, he will have to sort it out with his family as best he can but if he lies to Parliament, he rightly has to resign. Truthfulness, trustworthiness, integrity and a concern for the wider good are not principles that we just happen to choose. They are the fundamental values which make possible any ordered life together.

So it is very good to know, as the noble Lord, Lord Hennessy, emphasised, from the introduction of the report, that the public have consistently prioritised these principles across the five surveys. It is clear that the public have continuing high expectations of those in public office and that is very healthy. As the survey indicates, there is an overall decline in standards since the survey in 2008 and this stands in marked contrast to an overall continuous rise from 2004 to 2008. The report was correct to point out that the decline since 2008 had much to do with the financial sector, particularly the banks in bringing about the economic crisis, and the newspaper hacking scandal. So, as they point out, if trust can be lost, it can also be regained, as it rose in some areas in the years from 2004 to 2008. That is an important point and we must respond to it.

Nevertheless we cannot get away from the fact that the overall rating of standards has declined very sharply. In 2004, 46% rated them quite high or very high but by 2012 this has fallen to 35%. The noble Lord, Lord Bew, emphasised the importance of educating public office-holders. I suggest that the Government have a responsibility, both through the Department for Education—in citizenship education in schools in particular—and the Department for Communities and Local Government, through its cohesion programme, to try to educate religious communities and, not least, their leaders. Religious communities now have a key role in thickening the moral fabric of our society. Communities of all faiths have a particular opportunity to feed into and strengthen the moral bonds that hold us together and which enable public life to truly serve the common good.

8.05 pm

Lord Norton of Louth (Con): My Lords, I too congratulate the noble Lord, Lord Bew, on initiating this important debate. I wish to make three short points. The first is that maintaining standards, as embodied in the Code of Conduct, is necessary, but it is not sufficient to establish high levels of trust in our political system. As is clear from the survey, we have some way to go to meet the necessary standards. However, ensuring compliance with the code should be seen as only part of the solution. What flows from the survey, and the Hansard Society's annual *Audits of Political Engagement*, is that we should be pursuing both a bottom-up and a top-down approach to restoring trust.

The bottom-up approach is captured by one of the final sentences of the survey, on page 51:

"It also seems likely that perceptions of standards would respond to better public information about how different institutions try to ensure that they live up to the principles in public life".

One of the problems is lack of understanding of the political process. Like the noble and right reverend Lord, Lord Harries, I believe it is necessary to bolster citizenship education. It is in the national curriculum, but there are no incentives for head teachers to take it seriously. We need to be ensuring that there are incentives, and resources, for schools to deliver it effectively. It is essential to the health of our political system.

However, ensuring that people are more informed about the system is no guarantee that it will enhance support for it. That will come when people recognise that politicians are acting in good faith to deliver on their promises. There is thus a major challenge for politicians in terms of behaviour. We need political parties to move away from empty partisanship and to get out of the Downsian cycle of outbidding one another. We need politicians to show leadership—the top-down approach—to lead from the front and not follow focus groups or the latest passing bandwagon. Margaret Thatcher pursued policies that were contentious, but her leadership style resonated. We need to be addressing these issues. It is easy to advocate constitutional

reform, but that is a form of displacement activity. It is to suggest that the structure, rather than those who occupy it, is the problem. The problem is the people who occupy it. Once we accept that we are part of the problem— indeed, a central part—we can then start to tackle it.

My question to the Minister is straightforward: do you agree?

8.08 pm

The Earl of Lytton (CB): My Lords, I too congratulate the noble Lord, Lord Bew, on securing this very timely debate. The attempt to yoke standards in public life with public engagement is commendable but it is no easy task. The noble Lord, Lord Norton of Louth, covered a point which I was going to make and I would like to reinforce it. There is a lack of knowledge about the systems on which interviewees are being asked to comment. It is not just about the political scene, it is about all manner of things. Things such as crime statistics, in which I am interested, or medical incompetence may be important to a few but are not often a wider consumer experience. This report shows there is no room to be complacent but it also show there is an endless need to try to dig a little deeper.

Since 2012, we have had several high-profile instances of things going wrong in both the public and semi-public sectors. The fact that the semi-public bit is not truly a public body does not mean that it does not have a public profile or impact on the public interest. Professor Barry Loveday of the University of Portsmouth wrote an excellent paper some years ago about performance management. He identified the target culture; at senior level, it is a culture for its own sake. Then there is collectivisation of risk and responsibility, so that there is no individual to blame and, with it, no real focused leadership. There is protection of the status quo—the system for its own sake. With the rank and file, not to be too segregationist here, there is a silo mentality. People say, "It's not my job, not my responsibility". There is a demarcation with other people's roles and a philosophy of "Don't grass on your mates".

Within all this, some commonalities arise. There is the lack of ethical framework, referred to by the noble and right reverend Lord, Lord Harries. The rights and entitlements are not matched with the duties and responsibilities, a point made yesterday in "Thought for the Day" by Clifford Longley. There are no real consequences—everyone is doing it, so do not break ranks or make yourself conspicuous. These are the matters of concern.

We have heard about leadership and politicians. I am afraid to say that both rank exceedingly low on the OECD statistics, but there are obviously sociological aspects and there is this awful thing to do with victimless crimes—as if ever such a term could be invented. We should not have that; because the Home Office counting rules do not count them does not mean that there are no victims. So there has been a failure to exert rigorous investigations. I have in the past suggested that there should be senior criminal judge investigations in certain areas of our public life; there are victims who need to be recognised as there are malefactors to be brought to book.

I could go on, but my time is up. I wish the committee chaired by the noble Lord, Lord Bew, very well. Never was a role more worthy or necessary of further funding.

8.11 pm

Viscount Colville of Culross (CB): My Lords, I, too, thank my noble friend Lord Bew for putting together this report. I declare an interest as a producer at the BBC. As a journalist, I want to concentrate on what the report tells us about the public trust in the media and their ability to hold those in public office to account. In Chapter 5, the noble Lord, Lord Bew, reports on the decline in public confidence in the media to do this. It seems a small fall from 80% 10 years ago to 70% in 2012, but the decline reflects a public awareness of the ability of the media to investigate and check public figures.

Local media in particular have been devastated by the move of advertisers to alternative providers on the internet. My noble friend Lord Martin mentioned local authorities; across the country, the work of local authorities is being ignored by journalists and receives little public attention, as local newspapers close down or become freesheets. We see the same process in our national newspapers, as newsrooms are pared to the bone. Of course, there are still investigations, like the exposure by the *Telegraph* of the MPs' expenses scandal, but increasingly news is filled with PR, as product placement and unchecked political spin become more prominent. The internet is an extraordinary source of news stories, as the new tools of social media make us all citizen journalists. But when there are so many voices out there and so many with hidden positions and private axes to grind, it is hard to know which voices to trust.

That brings me to the findings of Chapter 2 of the report, showing a surprising increase in trust in journalists across the board; I wonder whether that would still hold up, after the last year of phone-hacking revelations. As my noble friend Lady O'Neill of Bengarve pointed out in her TED talk, the generic question of whether we trust a particular group is flawed. We do not ask whether we trust fishmongers; we trust some fishmongers and not others. Likewise, we trust some politicians and not others, and some journalists and not others. There are some journalists and some media outlets, such as the BBC and ITN, which we do trust.

It has never been more important for us to have professional journalists whom we trust to sift through evidence, painstakingly check its reliability and present us with a report that we can believe. They need to be supported by editors, prepared to take on an investigation even when it might fail. I cite the sterling work of my former colleague, Michael Crick, on "Channel 4 News", in getting to the bottom of the "Plebgate" scandal, as he tenaciously investigated the two competing versions of the truth offered by competing holders of public office. Eventually, he discovered the lies in the police story and the flaws in the Cabinet Office's investigation of that story. Television, the internet and newspapers need to foster those journalists, so that audiences continue to have faith in their ability to hold those in public life to account. It is important to support the

[Viscount Colville of Culross]
work of investigative journalists that is exercised with integrity, so that authorities can be held to account as part of a healthy democratic process.

8.15 pm

Lord Phillips of Sudbury (LD): My Lords, I, too, thank the noble Lord, Lord Bew, and want to concentrate on the issue of the ignorance of our young citizens of this place and its workings and the impact of that. The report says:

"One particular cause for concern from the research is the number of people, especially young people, who feel disconnected from the political system and political parties".

It says that the growth in the size of that group represents a challenge to us all. The noble Lord, Lord Hennessy, the noble and right reverend Lord, Lord Harries, and the noble Lord, Lord Norton, all referred to that.

Yesterday, the EU produced its first anti-corruption report. If noble Lords want to feel really miserable, they should look at that, because it shows that 64% of the people of this country consider that there is widespread corruption, from the private sector to the public sector and back. If noble Lords want to feel more miserable still, they should concentrate on the statistic in the Bew report to the effect that 41% of those polled in the youngest group—and a great number of people were polled—have no connection or sense of belonging to any political entity or party and are certain not to vote.

It is not good enough for us just to say that it is down to the Government. We are the legislature and we produce more legislation every year than any country in the free world: roughly 10,000 pages of new statute law a year. Much of that is beyond our comprehension, let alone the public's. I am not making a trite point. If we go on as we are, the chances of the British public catching up with us are frankly nil. It becomes an exercise in cynicism. If you do not understand the basics of your democratic society—and, my word, they grow in complication year by year—let alone the law, how can you expect young people to identify with the system, feel ownership of it and want to contribute to it as active citizens?

I must declare an interest as the founder and president of the Citizenship Foundation. It is the biggest civic educator in the country. The situation is critical. Half our secondary schools do not even have to teach citizenship education. The rest have scarcely been Ofsted-ed. The numbers taking citizenship GCSEs are falling. The number of those teaching citizenship is falling. This is a crisis and we must start at root with our young people and give them the chance to be citizens.

8.18 pm

Lord Kennedy of Southwark (Lab): My Lords, like other noble Lords I start by thanking the noble Lord, Lord Bew, for initiating this debate. I agree with many if not all of the points made. In three minutes, however, it is difficult to get across all the points that you want to make. I thank the Committee on Standards in Public Life for commissioning the preparation and publication of this report, which is one of a series that it has produced since 2004. Like my noble friend Lady Donaghy and the noble Lord, Lord Bew, I very much regret the withdrawal of funding for this survey in future years.

The report confirmed for me a number of things that I had suspected about public attitudes to standards in public life. While some of these perceptions might not always be fair, as politicians and people in public life we often do not do ourselves any favours. I noted that in 2012 MPs and Ministers were evaluated less favourably than all other categories, with the exception of tabloid journalists. The expenses scandal in 2010 certainly affected in a negative way public attitudes towards politicians, and levels of trust and confidence have not returned to the levels seen before then.

I am of the opinion that people who go into public life and who seek elected office, at whatever level, do so with the best intentions, and that in this House, in the other place, in other parliaments and assemblies, and, as my noble friend Lord Martin of Springburn said, in council chambers, good men and women are seeking to make things better. We can and should debate, discuss and even argue what that should be. That is what a healthy democracy does.

The report also highlighted how we need a strong media to hold people to account and showed that 70% of people believe that the media will generally uncover wrongdoing. It was pleasing to read that people generally felt they would be treated fairly by people providing public services. There are high standards in the public sector and we are well served by people who work there. We also have remedies to deal with issues when things go wrong. Being able to correct things and provide redress is part of the confidence in how you know that you will be treated.

Will the Minister tell the House what action the Government intend to take following the publication of this report? In particular, will he tell the House, as the noble Lord, Lord Hennessy, highlighted, what the Government intend to do to deal with people's feeling of disconnection from the political system and political parties? This is one of the most worrying findings of the report and it is incumbent on the Government to ensure that we have conditions in place to allow healthy parties to thrive.

I again thank the noble Lord, Lord Bew, for enabling us to debate this important issue tonight.

8.20 pm

Lord Wallace of Saltaire (LD): My Lords, this has been an excellent debate and we could have spent a great deal longer on it.

I am struck by the level of public alienation from conventional politics, which we find most of all among the young. I find it deeply frustrating that we are in this situation, partly because I spent some time as a member of the Government's World War One advisory board, reading political literature on the first 15 years of the previous century. I reflect that we have a much less corrupt political system than we had then. Standards of personal morality among our politicians are far higher than they were then, but respect and deference have gone down.

There are many reasons for that. We are in the middle of a media war with politicians. The Leveson inquiry has not settled things down into a new relationship yet. A major trial is under way that will impact on our perceptions of the media, as well as the relationship between the media and politicians. We have some real problems to face. When I read in the report where politicians stood, I was cheerfully reminded of a conversation at a party in Saltaire the winter before last. A friend of one of my wife's cousins asked me what I did. I said that I didn't think that she wanted to know. She said, "You're not a banker, are you?". I thought: good, there are people who rank below politicians in public respect.

However, we know that there is a crisis in our institutions and in confidence in our elites—not just our political elite. The standing of the police will no doubt be much lower in the next survey than it was in the latest one. This is a general problem for all of us; it is a problem of trust. The question of how we re-establish trust in our institutions is enormous. There is also a sense that people have lost local community. They have lost the church as part of local community and that gives them a sense of loss of control. They have lost local democracy. I am struck in our big cities, such as Bradford, Leeds and Birmingham, that there are wards of 12,000 to 15,000 people where you cannot have a sense of contact between elected politician and the community that he or she serves.

Globalisation—the extent to which multinational companies come and go, and a sense that international organisations, be they the European Union for us or the United Nations for Americans, are somehow interfering in our lives—gives a sense of popular alienation. The question of how we deal with this ought to be one of our major shared concerns. It cannot be dealt with by the Government or political parties alone; it has to be dealt with by all of us, including the media, judges, the police and others.

I liked the suggestion of the noble Lord, Lord Bew, that Dutch MPs see public education as part of their role. That is something we all ought to think about in more detail. I also liked his remark about the gladiatorial style of our party politics being a major part of the public's switch-off. Lots of other politicians watch Prime Minister's Questions because they think it is fun but not very constructive. The way that we approach political and constitutional reform is pretty awful. We ought to bear in mind that, unless we see the process of political and constitutional reform as a way of regaining the trust of the public, we are wasting our time.

The noble Lord, Lord Patten, asked about the House of Lords and how that fits in. I am not sure how people see the House of Lords—I think through a glass darkly on the whole. Yes, we are too large; so is the House of Commons, but that is partly because the Government are too large. We are the largest collection of government appointees of any advanced industrial democracy, and perhaps that is something else that we need to contemplate. However, I say to the noble Lord, Lord Patten, that the Private Member's Bill—the Steel Bill mark 5, or whatever it now is—which is now called the Byles Bill, will begin to correct the problem of lawbreakers subsequently returning to the Lords.

The noble Baroness, Lady Donaghy, asked the Government to review the decision to end this survey and I will take that comment back. I, too, read the Hansard Society survey on attitudes to those in public life. Part of the reason for deciding to end the survey of the Committee on Standards in Public Life was that a number of other similar surveys reach the same worrying conclusions, and the Hansard Society survey is clearly very much part of that.

The noble Lord, Lord Martin, talked of the importance of politicians being seen as serving their communities. One of the things that we have to combat is the sense that everyone, whatever they do, is doing it for their own benefit. That is part of the attitude that has grown up in the past 20 years. Economists bear a certain amount of responsibility for that with the growth of public choice economics, which argues that everyone is self-interested and no one has any altruistic feelings, as do the spread of libertarianism across the Atlantic and the disciples of Ayn Rand, who forget that the concept of public service—contributing to the life of the community—does motivate people. We need to reward those who are motivated by that. That is very much part of what we need to reintroduce in our public life because the cynicism of those who say, "You're all in it for what you can get out of it", is part of what has eroded popular respect for all our elite institutions.

My noble friend Lord Tyler talked about the power of money in politics as being part of that erosion. The power of money has always been there; it was just that previously it was disguised by deference. The extent to which we had mass political parties meant that they could claim to be funded by a very large number of people. I was rather shaken when I discovered, about two years ago, that in the previous year there had been more individual donors to the Liberal Democrats than there had been individual small donors to the Labour Party. The Labour Party had retreated to a position where it depended very heavily on union donations. That is a problem for all of us, and is one we all share. Why has our membership shrunk? Why have political parties ceased to be able to persuade people to share in contributing to political life at all levels, which is what we attempt to do?

The noble Lord, Lord Hennessy, talked about the need to reconsider the language of politics. That is very much a problem for all our public educators, journalists and others. The war between the BBC and the written media is part of the problem that we currently face, as the noble Lord well knows. There is the sense that the BBC is trying to address public service broadcasting and is being attacked; that it is an inherently left-wing concept for the *Daily Mail* and the *Telegraph* is part of what has gone wrong. How we gain that sense of a shared discussion about limited issues is very much a part of what we have to do.

I suggest that part of it is that politicians have to explain to people the limits of what is possible. I come from a party that, much against my efforts within the party's policy committee, attempted to persuade people that we could somehow abolish tuition fees. We could not; we needed to spend the money on early years and education. It was a mistake. Politicians in some parties

[Lord Wallace of Saltaire]
are now trying to persuade people that we can tell the world that we want to get off and go back to national sovereignty. We cannot. There are things that people want that politicians cannot provide. We cannot put up pensions, provide everything free on the National Health Service and cut taxes at the same time. Anyone who suggests that that is possible is misleading the public dreadfully.

The importance of expanding citizenship education is an issue on which the noble Lords, Lord Norton, my noble friend Lord Phillips and others touched. Yes, it is vital. No, we have failed to do that, as have successive Governments over the past 20 to 30 years, and more. It is something that other institutions, such as the churches and local politics before local government was cut so badly, used to provide. We have to find a way of doing that and I thoroughly support the work of the Citizenship Foundation and my noble friend Lord Phillips, in promoting it.

We all feel that good men and women are needed to hold political life and democracy together. We also recognise that to some extent the professionalisation of politics has undermined that. We have a problem with political recruitment and getting people into politics who will want to serve. In many ways it is sad that David Cameron's efforts to bring a number of people from outside politics into the Commons through his A list has not been more successful. He was trying to find people from outside political life who would contribute to politics. We need a broad common effort by all political elites to rebuild public trust. That has to come from parties, Parliament the media and others—heaven knows, business and bankers. Until bankers begin to make their own proper efforts to reconstruct the trust of the common public in the financial system, there is a limit to what we can do to rebuild public trust as well. Most of all, we need to explain to and educate our public about what is possible and what is not, and to accept that we are not just politicians but, as the noble Lord, Lord Bew, said, we have to be public educators.

8.33 pm

Sitting suspended.

Water Bill

Committee (1st Day) (Continued)

8.37 pm

Amendment 98

Moved by ***Lord Whitty***

98: After Clause 15, insert the following new Clause—

"Retail exit

(1) The Secretary of State may by regulations make provision about the transfer of an undertaker's assets and liabilities associated with its non-household retail business into a separate company.

(2) Regulations under this section are to be made by statutory instrument.

(3) Regulations under subsection (1) may, in particular, make provision for any such transfer to be subject to—

(a) approval by the Secretary of State;

(b) any such safeguards as may be specified in the regulations;

(c) the transferee company holding a licence containing a retail authorisation pursuant to section 17A of the Water Industry Act 1991;

(d) the provision of any information or other such assistance from the relevant undertaker as may be required by the Secretary of State for the purposes of approving the transfer."

Lord Whitty (Lab): My Lords, at Second Reading there was bemusement on all sides of the House as to why the Government were being resistant to the concept of exit in the new retail market. I am not sure that the Minister's words, either on that occasion or in any briefing since, have convinced me as to why, uniquely in this market—or almost uniquely—we should not allow exit.

It is a funny market in which we are trying to encourage new entrants by designating the area in which they should operate, and designating the terms and regulations under which they should operate. We envisage benefits to business and other non-domestic consumers within that market as a result of that competition, and we are assuming that it will bring benefits to a wider part of the whole water structure and water consumers. However, to maximise the effect of a market, there have to be winners and losers; and we are talking about competition and different companies with different forms of experience.

There is not only bemusement around the House about why the Government were resistant to the concept of exit. Out there, many bodies—including Ofwat itself, which I would have thought is fairly significant—are saying that we should allow exit. Although some of the incumbent companies are opposed to it—Water UK has said that, on balance, it is not really convinced by it—some of the major companies are in favour. I have not declared many interests so far, but my current interests are that I am a consumer of two water companies, Thames and Wessex, both of which have written to me and said that they are in favour of providing an exit clause.

Why would you allow a situation to continue in which somebody is supplying part of the non-household retail market but not doing well at it? Remember that there is an obligation on the regulator to ensure that everybody who wishes to be connected to the water supply will be connected to the water supply, so nobody is going to be stranded despite some of the things that have been said. Why should a supplier who is losing customers and presumably losing money, or certainly not making as much money as they had hoped, be prevented from leaving when Ofwat can arrange for somebody else to take over those assets and that market? I do not know of a serious precedent in any other field. We are trying to encourage a degree of churn, with new entrants, new competition and new drive for reducing costs, yet failing companies, or relatively failing companies, are not allowed to pull out.

This is odd, but even odder is what seems to be the Government's main objection. The Government were kind enough to send us a further explanation, and although there are some other points in it that we do

need to take seriously, the main point was that providing for exit would create uncertainty and put off investors. I tried to downplay investor panic when speaking to the last but one amendment, but there are arguments about that. Investors are getting a good return, but why would they want to persevere in an area in which they were not getting a good return, where they were failing, and where on their own internal economic analysis they were being advised to get out? Investors see the UK water market as a pretty good return, a steady return and one that will last a long time. However, there may be a part of that market they are supplying and where they are failing. Customers may be pulling away from them and going to rivals or they may be getting a high level of complaints—one way or another they are failing, and that will show up in their balance sheet eventually. Why would international investors say we absolutely will not invest in England unless we are forced to remain in an unprofitable market?

There seems a fair degree of absurdity in the explanation. That argument for the Government falls. Maybe some strange investor has told somebody in the department or a government adviser that that is the case, but logically, that cannot possibly be the reason. The problem is that the department have got stuck on this. The reality is that it was a bit untidy to allow for exit. New rules and procedures would have to be invented and safeguards built in, and that was not the priority. The priority was to get new people in, not to get people out.

Fair enough, but we have moved on, because a range of people have, as I have said, raised this issue. The Government now have to think again. There are some objections to providing for exit and some concerns about it, but those concerns are covered by the safeguards that are built into the amendment. The Government may want to elaborate on it, but it provides that for exit, Ofwat have to approve it, ensure that there is a substitute supply and make sure that there is no disruption as far the business consumer is concerned, and Secretary of State approval is also needed. That might appear a bit draconian to some investor who desperately wanted to get out. However, it provides a safeguard to counter for example the objection that comes—rather quietly, but nevertheless it does come—from the Consumer Council for Water, which is a bit worried that they would have people left literally high and dry. That could not happen under this system: Ofwat must supply. In a strange situation, the Secretary of State could block it if there was a real reason for thinking consumers might be in danger, whether they are consumers in a competitive market or other consumers affected by the knock-on effect.

8.45 pm

I still do not understand why the Government say that this is not appropriate. There has been a subtle change in the latest leaflet they have sent round. They do not say that they are against it but that it is premature, which is always a good way for the Civil Service to say, "We cannot be bothered with it just now". However, if it is premature to do it, why do the Government not provide for some contingency and say that they will put it into the Bill that after two years they will allow for exit. In that way, any immediate disruption, uncertainty or whatever could be overcome and people would know what the rules were. They could build that in. I do not think that we even need that, but if we do, the Government could table an amendment to that effect on Report. It is yet another safeguard which can be built into the Bill.

As it stands, it is bizarre and does not gel with any concept of a market that most of us understand. I believe that if the safeguards are there, the Government will eventually come round to doing this. I hope that they come round to it during the course of the Bill, rather than finding themselves in a situation in a year or two where it becomes obvious that some of the players in the market ought to get out and that the consumer experience would be better if they did so. The Government should think again. I hope that the Minister will have better news for us on this. I beg to move.

Lord Moynihan (Con): My Lords, I shall speak to Amendments 107 and 132 in my name. I also support Amendment 98 in the name of the noble Lord, Lord Whitty. I have listened to him over the past 10 minutes and there is now no doubt in my mind that his amendment—and, indeed, this group of amendments—is the jewel in the crown of all the amendments that have been tabled so far to the Bill, and that is for a very good reason.

The Bill provides for the opening up of water retail services to competition. That is welcomed by some of the leading water companies and by the regulator, and the concept of exit is welcomed by both. Exit is welcomed north of the border and it has been welcomed by the Defra Select Committee. That is a rare alliance indeed. However, as the noble Lord, Lord Whitty, has stated, it is also welcomed by the investor community. Brought together, they are powerful voices in support of exit in the retail services market.

I shall concentrate my remarks on a number of the points raised by the noble Lord, Lord Whitty, and then summarise, as I see them, the key areas of opposition to date that the Government have put forward and offer some reflections on them.

The first and most fundamental point is that for an effective market there needs to be an ability for new entrants to enter and for existing market players to exit. Customers benefit from more effective and efficient suppliers replacing poorer performing businesses. Allowing incumbent water and sewerage companies to exit from retail services would help ensure successful development of the new retail services market and thus benefit customers. Successful entrants could more quickly acquire critical mass by buying the customers of the less successful or committed incumbent retailers. There appears to be plenty of scope for customer benefit if high-performing companies were to take on the customers of other companies.

Ofwat data have suggested that one water and sewerage company can spend up to twice as much as another providing retail services to each domestic customer. Ofwat reports significant variations between companies' customer service standards. Simon Less, the senior visiting fellow on regulatory policy, has done some outstanding work. He has clearly made the case at the Policy Exchange that where a company

[Lord Moynihan]
considers its strength is in wholesale water activities, allowing it to sell its retail business would enable its management to focus on wholesale. Water wholesaling and retailing have quite different sets of risks. Exiting retail services would reduce a wholesaling company's risks from, from example, bad debt. The sector would, overall, be able to access investors with a wider range of risk appetites. Allowing exit from retail services would enable mergers between retail businesses, with benefits from increasing scale and scope.

Not only is the group that I have outlined in favour of exit; let us also reflect for a moment on the Bill. This Bill principally came from Martin Cave's review—80% to 90% of the Bill was based on this review. He, too, is supportive of this principle. It does not go as far as separation, which does concern many noble Lords. It allows, as the noble Lord, Lord Whitty, has stated, no compulsion, simply an option to exit the retail market. I mentioned that the market itself is supportive of this proposal. It is interesting that Moody's has come out in support of the proposal. Not only Moody's, but Macquarie Equities Research has recently published a telling and impressive review of retail exit, in which it states:

"We … see a consolidation of retail functions as positive for both consumers and shareholders. Companies will be under no obligation to exit, but will hold the option to do so … Consumers benefit as ultimately all cost synergies are passed to consumers".

In placing a value on this, Macquarie concluded that synergies through exit could be worth up to £40 million to just two companies alone. Let me quote its overall conclusion on this:

"Under retail competition, given the size of their bills and the services they require, non-households are the area where",

you would,

"expect to see greatest activity in providing new, tailored services for customers. Figures from Scotland, where there has been non-household retail competition since 2008, show that customers have saved £35 million.

We estimate that NPV savings for customers in England and Wales could be c. 10x that in Scotland, or £350mn.

This estimate tallies with a cross reference estimate. Total annual costs in household retail is c.£800mn and that non-household is roughly 1/2 that of household: i.e. £400mn. With a 15-20% cost reduction through consolidation we would expect to see total annual savings of c.£60-80mn per annum. If we assume that half of this is shared between consumers and companies, then the benefits of consolidation could be c.£30-40mn per annum, or c.£400mn value. …

Under current proposals, water suppliers will need to hold a 'licence of last resort', meaning that if they exit their retail division, they are still potentially liable to provide retail services if the new owner of the retail customers goes into administration.

This means … that water companies are unlikely to exit their retail divisions if they need to maintain the capability of running the infrastructure systems needed in case their customers need to return.

This causes two problems … : firstly in the non-household retail division, the water companies that lose market share, will end up with rising costs relative to their revenues and could potentially see losses increase and continue, and secondly in the household retail area, there can be no cost synergies between the existing 18 water and water and sewerage companies".

Macquarie's is a powerful voice in this debate, but I would argue that Ofwat is an even stronger voice. Cathryn Ross, at the Water Bill Committee on 3 December, said:

"Our view is that retail exit for incumbents is a critically important element of a functioning, effective retail market. Particularly important is the fact that if we do not allow incumbents to exit, essentially we are mandating inefficient retailers' remaining in the market. That will basically be baking in cost that customers will have to pay for, which we can easily avoid".—[*Official Report*, Commons, Water Bill Committee, 3/12/13; col. 7.]

What would my amendments do? They would enable incumbent water and sewerage companies to transfer their retail businesses to third parties. They would also secure the benefits of such transfers by ensuring a level playing field and consequently maximising the benefits that could flow to non-household customers. It is important to repeat that this approach does not require or compel incumbents to transfer any or all of their non-household customers. It is an option and, as the noble Lord, Lord Whitty, said, it would be subject to the approval of the Secretary of State and a restriction on its use by the competition authorities, and nothing more.

I said that in closing I would try to answer the issues which, as I understand it, underpin the Government's position at present. The first was referred to by the noble Lord, Lord Whitty: allowing retail exit could unsettle the investment climate. I hope that the noble Lord, Lord Whitty, and I have demonstrated from both sides of the Committee that that is not a strong argument when investors and companies are actively seeking this change, suggesting that they are far from unsettled by it. As I mentioned, the rating agency Moody's had previously suggested that this would be a positive change, and the Australian bank Macquarie, as I have quoted, also supports the change. Similarly, a recent research study report entitled "Ready for Retail?" published in *Utility Week*, which I have gone back to—it was quite wrongly maligned by my noble friend the Minister in his summing up at Second Reading—is a good assessment and is worth looking at closely. It highlights that of those companies that were approached, 76% supported amending the Bill to allow retail exit, so I am not convinced that allowing retail exit is going to unsettle the investment climate.

The second point put forward by the Government is that allowing only non-households to exit the retail market would create a two-tier market where householders could be left stranded with a water company that has signalled a lack of interest in providing customer service. To the extent that there is a concern here, it would be addressed entirely by allowing retail exit for all customers rather than just the non-household element. However, even if only non-household retail exit was facilitated, again this appears to be a weak argument when companies have been forced to provide these services in any event since privatisation. Since companies have no choice but to provide retail services because the licence they signed up to at privatisation requires them to provide an end-to-end, source-to-tap service, we really have no idea about whether they are interested, or not, in providing them now—absent retail exit. Indeed, there is a wide variation in the quality of customer service provided by companies, with some of them improving but still some significant gaps at

the moment. This argument is really an argument against the status quo. If we have been comfortable with the current arrangements for the past 20-plus years, it seems odd to start criticising it now.

The third point is that if the Government were to go further and allow retail exit for all customers, households could be passed to a new retailer about which they knew nothing and, unlike business customers, they would have no option to switch if they were unhappy with the quality of the service they received. This point, which has been made by the Government, is true on the face of it, but it is rather a xenophobic one. First, customers have never had any choice over who provides these services because they have simply inherited their local monopoly provider. Again, why is this a concern now? Secondly, while the local branding of companies—Thames Water, Severn Trent Water and so on—gives us a warm sense of local provision by local companies, of course they are not local at all. Most of the companies are owned by Canadian or Australian pension funds, and that ownership changes hands regularly with customers none the wiser about the process. Generally the process is very positive for customers because competition in capital markets brings new investment into the sector, and investors put pressure on the management of these companies to keep costs, and therefore bills, down for customers. Surely the key point is that customers want the lowest prices and the best service, and allowing retail exit provides that most effectively. Poor performers are moved out of the market and good performers can grow their market share, even if they are not the "local incumbent".

The fourth point mentioned by the Government is that introducing retail exit would require a change or create problems with Ofwat's price controls. I hesitate to say it, but I think that is a redundant argument. The current price control arrangements apply to regionally specific companies and licences. Ofwat is setting both household retail and non-household retail price control. Allowing this change would be easily accommodated within Ofwat's price control arrangements; in fact they have been designed for that purpose.

9 pm

Finally, the argument is that we should wait to see how the market develops and make the change later, as the noble Lord, Lord Whitty, said. The reality is that the water supply licensing regime was introduced as long ago as 2005 to give business customers choice. That regime has, by any standards, been a failure. Fewer than 10 customers have switched suppliers since the market opened because the legislation was inadequate and inadequately set out and, in many eyes, overprescriptive. For example, setting out the excess pricing arrangements in the law—the costs principle—was not a good idea, another point recognised by Professor Martin Cave and much prayed in aid by the Minister this evening.

Business customers are sceptical about the new legislation because many were disappointed in 2005. After the false start of 2005, we have an obligation to get the legislation right and to ensure that the market works well for business customers. We should not take any risks to create a second false start. Coming back again in 2020-plus to have a third go at making this work should not be an option. I strongly support the case for exit.

The Earl of Selborne (Con): My Lords, after those two speeches, there is not much more to be said. For 24 minutes, we have had a very powerful exposé of the astonishing contradictions of a Bill which is here to promote competition and which is trying to implement Professor Martin Cave's recommendations. The OFT said of orderly exits in the report that successful markets require a right of exit.

In this specific market everyone, including the EFRA Select Committee, has taken a very firm view, which has been forcefully put by the noble Lord, Lord Whitty, and my noble friend Lord Moynihan. The only argument that I have read that puts the contrary view has been the Government's response to the EFRA Select Committee. That response has been so efficiently demolished that I do not think I need to repeat the argument.

I drew a crumb of comfort from the Minister's response at Second Reading. He slightly opened the door when he said that it was just possible that the Government might wish to think further on this. We need the ability in the Bill to allow exit at a future date, sooner rather than later. It needs to be in the Bill, because there will not be another water Bill for some time. I hope the Minister will look with approval on these amendments. I do not mind which of the two is accepted; it is the principle which needs to be accepted.

Lord Crickhowell (Con): My Lords, this has been a remarkable brief debate. I thought that the noble Lord, Lord Whitty, introduced the amendment in a very low key, charitably commenting on the Government's position. That powerful speech was followed by what I was going to say was a lecture, but certainly a speech, that ought to be read by every civil servant in the department, because it was one of the most impressive speeches—lectures—about market economics and their realities that I have heard for a very long time.

I know my noble friend on the Front Bench knows something about business and will have listened with care. I beg him on this occasion to listen to the realities of the market rather than the detached views of civil servants, who, by their training and nature, may not be as equipped to deal with market realities as my noble friend Lord Moynihan clearly is.

It was only really when I heard the speech of the noble Lord, Lord Whitty, and even more so when I heard my noble friend Lord Moynihan's speech, that it seemed we were going to deal with this point about uncertainty. I simply cannot believe that people advance that as a serious argument. All the evidence suggests that if you want to have market confidence—the confidence of investors and of the people who advise them—you need to have a clause of this kind. Far from an uncertainty, it is an absolutely essential requirement in order to give the market confidence. On that ground alone, I believe that this amendment simply has to be taken seriously by the Government. I hope that, rather than advancing any arguments that have been put in his papers before the debate, my

[LORD CRICKHOWELL]
noble friend makes a very cautious response, takes away my noble friend Lord Moynihan's speech and demands that his department consider it adequately and fully before we come back again on Report.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord De Mauley) (Con): My Lords, I am very grateful to the noble Lord, Lord Whitty, for moving his amendment and to my noble friends for speaking to theirs, as well as for the debate as a whole on retail exits and for an understanding of the concerns of noble Lords.

Amendment 98, tabled by the noble Lord, Lord Whitty, and Amendments 107 and 132, tabled by my noble friends Lord Selborne and Lord Moynihan, take two different approaches to enabling incumbent water companies to exit the non-household water and sewerage retail markets. Amendment 98 would provide for such exits through regulations produced by the Secretary of State, and Amendments 107 and 132 through transfer schemes produced by incumbent water companies and approved by the Secretary of State.

For completeness, I should be clear from the outset that new entrant licensees may enter and exit both the retail and upstream markets whenever and however they wish. It could be as simple as surrendering their licences to Ofwat, and their customers could then be distributed to other licensees through the supplier of last resort regime introduced by Clauses 31 and 32. Alternatively, they could sell their customers or their infrastructure to other licensees ahead of surrendering their licences. These companies operate only in the competitive part of the market, serving non-household customers who will be able to switch to another retailer if they are unhappy with the service they receive.

However, these amendments deal with the thorny issue of retail exits by incumbent water companies, the quasi-monopolies appointed in each area of England and Wales. We have heard a range of arguments for retail exits at Second Reading, during the passage of the Bill in another place and now this evening. This is a complex issue with far-reaching ramifications for both customers and investors. It is clear that the intention, at least of Amendment 98, is to allow exit only from the non-household market, leaving household customers with the incumbent companies. However, this partial form of exit would leave many questions unanswered about the future relationship between the incumbent water companies and their customers in both the household and non-household sectors. We want our market reforms to lead to real improvements in services for all customers, including of course household customers, and we do not consider that making such a change at this time would be in the overall interest of customers. Before making potentially far-reaching changes to the relationship between all customers and their water companies, we would need to ensure that they were effectively engaged. The Consumer Council for Water, the independent organisation responsible for making sure that the customer voice is heard, supports the Government's approach to retail exits.

We want to see a successful non-household retail market. The Bill sets a framework for new-entrant retailers to enter the market on an equal footing with the retailers of the incumbent water companies. We expect Ofwat to use its regulatory powers to make sure new entrants can be confident they are competing on a level playing field. Clause 23 introduces a shared obligation between the Secretary of State, Welsh Ministers and Ofwat to take steps to reduce the likelihood of incumbents discriminating in favour of their own retail businesses or associate licensees. However, retail exits are not about delivering a level playing field. They are about some incumbents wanting to exit because they do not want to participate in a competitive retail market and would prefer to stop offering services to any non-household customers in their area. While we might expect there to be a more active market in England from 2017, a scenario in which incumbent companies lose most or all of their customers is highly improbable. Incumbents sitting around while customers disappear is, in our view, an unlikely scenario.

The point we are making is that this is evolution not revolution. Many non-household customers may choose to stick with the incumbent supplier because the incumbent supplier improves its services as a result of these reforms. Where customers choose to switch, we anticipate a growth market where innovation and competition lead to benefits, both environmentally and in customers' bills.

Incumbent water and sewerage companies are given clear responsibilities for a reason. Their unique status as virtual monopolies requires some commitments from them in return. This means that following a retail exit, the incumbent might still be required to provide retail services to any non-household customers that move into the area, or when new non-household developments are completed, or if the market failed. Incumbents are the default supplier of first and last resort regardless of whether they are able to hive off their existing non-household customers to a licensee. Allowing partial retail exits would also open the door to forced separation. We have already discussed the risks relating to separation.

It was incumbent water companies themselves and their investors that persuaded us of the risks to future investment should separation be forced onto the sector. They told us that forced separation would increase risk to investment and push up costs to customers if they had to renegotiate their finance packages as a result of restructuring their businesses. Neither companies nor their investors have told us that they have reversed their view on this.

Amendment 132 would prevent the new Competition and Markets Authority—but not Ofwat—using these provisions to force separation as a remedy to address issues to do with discrimination. We doubt that such a mechanism would be appropriate. More importantly, for the reasons I have explained, we believe integrated companies that are able to provide services to customers within their area of appointment are the right approach for the time being.

Let us be clear: any decision on separation should be made by Ministers and Parliament. We are not prepared to take the risk of any restructuring, or even the potential for it, destabilising investment or increasing costs or even supply risks to customers. While all these amendments envisage the Secretary of State permitting

exits, this will also be open to challenge. I have already said that there are very good reasons for not allowing exits yet.

I hope that noble Lords will appreciate that there is more to this matter than simply allowing some incumbents to exit the market. We are not ruling this out for the future but we have a responsibility to consider all the impacts on household customers and on choice in the competitive markets before putting provisions into law.

The noble Lord, Lord Whitty, and my noble friend Lord Moynihan, suggested that we should allow failing companies to exit. The focus of many comments has been the exit of failing companies. Advocates for exit assume that the large players will swallow up the small. These are the companies, however, that customers value for the quality of their service and are often the most efficient suppliers of retail services. Do we really want to see consolidation that loses these efficient and valued companies?

My noble friend Lord Moynihan referred to Macquarie. I simply say to him that its figures need to be looked at with some care. It assumes complete exit, including from the household market, and that there would be no risk of separation. That is not the model proposed by these amendments and it raises some significant issues about the protection of household customers.

It has been suggested that an OFT report—*Orderly Exit*, published in December 2012—supported the case for allowing retail exits. That report is about designing continuity regimes to allow orderly exits from the provision of public-facing services without interrupting the delivery of services to customers when a business becomes insolvent or otherwise fails. It is not about allowing a company to decide whether it wants to continue with some of its statutory obligations and to get out of others because it no longer feels it wants to compete. The regulatory regime for incumbent water companies already provides for orderly exit in cases of insolvency and for enforcement purposes.

The deadline for the retail market opening in April 2017 is challenging but achievable under the conditions set out in the Bill at present. That would be put at risk if we were to legislate for further structural changes to the industry at this time. Given what I have said, I hope that the noble Lord will be prepared to withdraw his amendment.

9.15 pm

Lord Whitty: My Lords, I am slightly baffled by the Minister's reply, which seemed to repeat the main arguments that noble Lords all around the Committee have knocked down. I am very grateful for their interventions, particularly the forensic analysis by the noble Lord, Lord Moynihan, of why this is a misunderstanding of markets.

I tried to do a relatively simple thing. We are creating a market in the non-household retail sector and my amendment addresses only that. We are encouraging entry and improvements, and we surely have to recognise that that will drive some people out in normal circumstances. I cannot see what the creation of a market means if you cannot have that churn. The Government seem fairly stuck on this. Some of the things the Minister said really relate to wider considerations and there is nothing in these amendments—certainly not in my amendment—that means forced separation. This is voluntary withdrawal by incumbents from a relatively small part of the market. Their new rivals coming in already have that right so it is not a level playing field. Really, what does this market mean? I know it is small and that we are making changes that are quite new within the water sector, but surely we ought just to be bold enough to allow this. I hope the Minister will recognise that there is a lot of experience in this Committee and in the industry with a consensus for allowing this, subject to the kind of safeguards written into my amendment, which give Ofwat and the Secretary of State huge powers to prevent any catastrophic effect on consumers of any sort.

Just before I stood up, I tried to find the quote from Cathryn Ross of Ofwat that the noble Lord, Lord Moynihan, used. I will just end on that point. If we took the Government's line—I have lost the quote again now—we would effectively provide for failing companies and bake in cost. The Government do not really want to do that, do they? I hope they will think again. Meanwhile, I will withdraw the amendment.

Amendment 98 withdrawn.

Clause 16: Charges schemes

Amendments 99 to 100 not moved.

Amendment 101

Moved by ***Lord Grantchester***

101: Clause 16, page 53, line 16, at end insert—

"( ) The rules under this section will require water and sewerage undertakers to consult with the Council on their draft charges scheme."

Lord Grantchester (Lab): My Lords, this amendment would ensure that the Consumer Council for Water would have to be consulted by the water and sewerage undertakers when they drew up their draft charging schemes. The importance of this is that it would allow the CCW to play a role from an early stage and provide the ability for it to flag problems then, before the relevant bills start arriving on customers' doorsteps and further problems occur.

One example where the Consumer Council for Water had previously challenged a charging plan concerned some companies' plans to restrict half-yearly payment options for those on direct debit payments. Some customers prefer to pay in that way, as it better enables them to manage their money. The elderly, in particular, may want to retain that option, so it is important that attempts by those companies to stop it were successfully challenged by CCWater. That is just the kind of circumstance that the amendment is designed to pre-empt.

That gives rise to a whole series of problems surrounding direct debits and whether there should be any extra charge for non-direct debit payments, which can be disguised as a discount for direct debits. That may become part of the Consumer Rights Bill, shortly to come before your Lordships' House. Another example

[Lord Grantchester]
of the benefit that the amendment would create was provided when CCWater negotiated with companies not to backdate charges if a company was at fault for initial error that resulted in substantial backdated charges. That can be as simple as misreading of a water meter by the water company's employees. It is clear that in such an environment it is always useful, and sometimes essential, for CCWater to have such a say before charging schemes are finalised. It ties in with other steps that we hope to take to protect consumers during the passage of the Bill, such as providing for collective redress where a number of consumers have been subject to detriment.

The amendment is short and simple. I therefore hope that the Minister will find that it makes sense to include it in the Bill. I beg to move.

Baroness Northover (LD): My Lords, the noble Lord, Lord Grantchester, has already highlighted the important work being done by the Consumer Council for Water, a view with which we very much concur. As he laid out, the purpose of his amendment is to require water and sewerage undertakers to consult the Consumer Council for Water on their draft charges schemes. That is clearly a reasonable objective. I therefore confirm that the Consumer Council for Water is in fact already routinely consulted by water companies on their charging schemes. That is in addition to the important work that CCWater undertakes to ensure that the consumer voice is heard during the price review process.

The noble Lord is right to say that the protection of consumers is essential, and never more so than in a sector with monopoly characteristics, such as water and the sewerage sector. CCWater plays a vital role in working with the water companies to ensure that their charges schemes do not have unintended consequences for hard-pressed customers, and we want that to continue.

I am therefore very happy to be able to reiterate the assurances already given in another place that the charging guidance produced by the Government will ensure that consumer groups such as CCWater continue to be properly consulted on company charges schemes in future. CCWater has identified its three top priorities in relation to the Bill. The third of those is that the charging guidance,

"should reflect that CCWater should be consulted by each company on its charges scheme and any changes to it before they are implemented".

Once more, I confirm that the charging guidance produced by the Government will ensure that CCWater continues to be consulted on charges schemes. With that reassurance, I hope that the noble Lord will be content to withdraw his amendment.

Lord Grantchester: My Lords, I am very grateful to the Minister for that assurance. The provision should indeed, as a minimum, be included as statutory guidance. That is very well accepted by the Consumer Council for Water. However, we have received briefing from it that it is particularly keen that that should be written into the Bill. We will consult further and reflect on the Minister's words but, in the mean time, I beg leave to withdraw the amendment.

Amendment 101 withdrawn.

Amendments 102 and 103 not moved.

Clause 16 agreed.

Clauses 17 to 20 agreed.

Amendments 104 to 106 not moved.

Clause 21 agreed.

Amendment 107 not moved.

Amendment 108

Moved by ***The Earl of Selborne***

108: After Clause 21, insert the following new Clause—

"Right to discharge water

(1) A sewerage undertaker may discharge water from a relevant pipe or from a drainage system constructed pursuant to section 114A of the Water Industry Act 1991 into any inland waters, whether natural or artificial, or any tidal waters.

(2) In this section "relevant pipe" has the same meaning as in section 158 below.

(3) A sewerage undertaker shall pay compensation to the owner or occupier of any land who suffers damage by reason of the exercise by the authority of any right under subsection (1) above.

(4) This section is without prejudice to any enactment the purpose of which is to protect water against pollution."

The Earl of Selborne: My Lords, Amendment 108 refers to the rights to discharge and its purpose is to support the installation of sustainable urban drainage systems, or SUDS. It is generally recognised that SUDS are part of the long-term solution towards the sustainable use and drainage of water. They improve surface water management and reduced the risk of flooding, and they may include rain gardens, permeable paving, swales and the like. They are designed to collect water and release it slowly back into the environment.

Clause 21, which we have just agreed, clarifies the function of a sewerage undertaker under the Water Industry Act 1991 to include the building and maintenance of SUDS features, so we are here to promote SUDS and the Bill does that. However, there is a problem. To install a SUDS scheme an undertaker, a water company or a drainage company has at present to negotiate the right of discharge. Without such a right or with the prospect of costly negotiations and litigation—there has been plenty of that—there is little incentive to deliver SUDS schemes as opposed to surface water sewers.

The amendment would remove this uncertainty, which has led to litigation and to a lack of incentive for the installation of SUDS. It helps sewerage undertakers to deliver SUDS schemes. We are of course awaiting secondary legislation, which is a separate issue, on the maintenance and the issues with local government on SUDS. That apart, this deals with a much more fundamental issue. It would resolve the legal uncertainty that has arisen since 1989, when a previous water Bill removed the right of sewerage undertakers to discharge. The amendment would therefore restore the legal position to where it was before 1989, when sewerage undertakers had a statutory right, as highway authorities still have,

to discharge pure water into any watercourse. I emphasise that it has to be pure; no one is suggesting that there should be a licence to pollute in any shape or form.

At the moment traditional pipe discharges, which are inferior in many respects to SUDS, as I have explained, can be acquired by compulsory purchase powers. However, again, under the Bill we are not extending compulsory purchase powers to SUDS. I am not suggesting that they should be but that once you have the right to discharge, these powers will give an incentive for SUDS to be installed. That incentive is greatly needed, and I beg to move.

Lord De Mauley: My Lords, I am grateful to my noble friend for raising the importance of sustainable drainage systems and I agree with him on this. I can confirm—my noble friend referred briefly to this—that we plan to bring forward the secondary legislation needed to implement Schedule 3 of the Flood and Water Management Act 2010 by April this year, and to commence it at the earliest possible opportunity.

I appreciate, also, that the issue of the right to discharge water is important for sewerage undertakers. However, this is not, by any means, a straightforward issue and there are more interests which would need to be taken into consideration, including the impact on landowners and bill payers. The amendment would allow the discharge of water without express consent. It suggests that compensation should be paid if there is any damage but that no permission needs to be sought. Interference with third parties' land rights would need careful and detailed consideration.

Current case law suggests that there is no general right to discharge without compensation under the Water Industry Act 1991, for sewerage undertakers or others. Private parties who wish to discharge water on to other parties' land or into other parties' assets such as lakes, canals or rivers have to negotiate an agreement to discharge water with the owners.

As my noble friend knows, a challenge to the existing case law on whether there is a right to discharge has been made and will go before the Supreme Court in May. I am sure noble Lords understand that it would not be appropriate to comment on that case. In the circumstances, I ask my noble friend to withdraw his amendment.

The Earl of Selborne: I am grateful to my noble friend. The fact that this has led to such protracted, expensive and time-consuming litigation demonstrates that the law was left in an ambiguous situation—to put it at its kindest—after 1989. The issue clearly has to be resolved but whether the Supreme Court is the right organisation to do so is another matter. I think it would be more appropriate for it to be done by an appropriate Act of Parliament. This is not asking for something particularly unusual. As I said, highways authorities have the right to discharge at the moment. Before 1989, sewerage undertakers had the right to discharge. If landowners found themselves inconvenienced, it would only be in the sense that they were reverting to a situation to which they had been quite accustomed.

I have heard what the Minister says and accept that, with a case in the Supreme Court, he is constrained from discussing the detail. I therefore beg leave to withdraw the amendment.

Amendment 108 withdrawn.

House resumed.

House adjourned at 9.32 pm.

Grand Committee

Tuesday, 4 February 2014.

Arrangement of Business

Announcement

3.30 pm

The Deputy Chairman of Committees (Baroness Harris of Richmond) (LD): My Lords, if there is a Division in the House, the Committee will adjourn for 10 minutes.

Electoral Registration and Administration Act 2013 (Commencement No. 4 and Consequential Provision) Order 2013

Motion to Consider

Moved by ***Lord Wallace of Saltaire***

That the Grand Committee do consider the Electoral Registration and Administration Act 2013 (Commencement No. 4 and Consequential Provision) Order 2013.

Relevant document: 13th Report from the Joint Committee on Statutory Instruments

Lord Wallace of Saltaire (LD): My Lords, as noble Lords will know, there are a great many consequential orders in introducing individual electoral registration, and in changing some of our voting regulations and arrangements. There was a time when I knew almost nothing about this area; I am learning more and more.

There are three instruments for debate today. The Electoral Registration and Administration Act 2013 (Commencement No. 4 and Consequential Provision) Order 2013, brings into force, for parliamentary elections, provisions in the Electoral Registration and Administration Act 2013 concerning the ability of voters to cast a vote at close of poll. The two sets of regulations—the Local Authorities (Mayoral Elections) (England and Wales) (Amendment) Regulations 2014 and the Neighbourhood Planning (Referendums) (Amendment) Regulations 2014—update the rules for the conduct and administration of local mayoral elections in England and Wales and neighbourhood planning referendums in England. They do so by applying or copying provisions, including those on close of poll, in the Electoral Registration and Administration Act 2013 and associated secondary legislation, which made a number of changes to the rules for UK parliamentary elections.

In the main, the changes in all three of these instruments are intended to come into effect for polls held on or after 22 May 2014, which is the date of the European parliamentary elections and scheduled local elections in parts of England. The changes are designed to improve the accessibility and security of the voting process and to implement a number of recommendations which have been made by, amongst others, the Electoral Commission and the Association of Electoral Administrators. The regulations concerning neighbourhood planning referendums contain an additional provision on calculating the campaign expenditure limit for campaigners at a neighbourhood planning referendum. We intend that this should come into force on the day after the regulations are made. I will set out this change in more detail shortly. The instruments are part of a comprehensive package of statutory instruments which make various changes to the rules for conducting elections and referendums in the UK. The Government have consulted on the changes with the Electoral Commission and with others such as the Association of Electoral Administrators.

The close of poll order—the first order being considered today—brings into force Section 19 of the Electoral Registration and Administration Act 2013. That section provides for voters queuing at a polling station at close of poll to be issued with ballot papers and to vote, despite the time of close of poll having passed. This provision addresses the concern expressed during the passage through Parliament of the ERA Act about the need for a mechanism to deal with any queues which could, in some circumstances, form at polling stations at close of poll, given the isolated but highly publicised instances of queues at polling stations at the 2010 general election. Counting officers and returning officers will of course still be expected to carry out planning for polls, to the same high standards as now, to ensure that there are sufficient polling stations and adequate staffing levels to manage the volumes of electors likely to vote in person and to avoid such queues forming wherever possible. The order also makes provision for persons queuing at a polling station at close of poll in order to return a postal ballot paper or postal voting statement to return it despite the time of the close of poll having passed. This provision has effect in England, Wales and Scotland only.

I turn now to the provisions in the neighbourhood planning referendum regulations and the mayoral elections regulations. I will first discuss the measures that are specific to the neighbourhood planning referendum regulations before turning to the key measures that are common to both these regulations and to the local mayoral elections regulations. The neighbourhood planning referendum regulations change the basis on which the campaign expenditure limit is calculated at these referendums. The limit is currently calculated by reference to the number of electors on the register published after the annual canvass in the year preceding the referendum. However, under the transition to individual electoral registration, a post-canvass register was not produced in 2013. We are therefore providing that in future the limit will be calculated by reference to the register as it exists at the beginning of the referendum period. This period begins at least 28 working days before a residential poll and at least 56 working days before a business and a residential poll that happen together. We intend that this provision would take effect on the day after the regulations are made and affect any referendum where the referendum period begins on or after that date.

I turn to the measures that are common to both the neighbourhood planning referendum regulations and the local mayoral elections regulations. Where any variations exist, I will point these out. Provisions on these matters were included in amendments previously made to the European parliamentary election regulations and debated by Parliament, in order to apply the

[Lord Wallace of Saltaire]
provisions to the European parliamentary elections this May. Both sets of regulations update the forms used by voters, such as poll cards and postal voting statements, that are intended to make the voting process more accessible. The changes continue the work carried out to modernise the appearance of forms used by voters at newly created polls, such as the police and crime commissioner elections and the 2011 referendum on the parliamentary voting system. The revised material has been produced following a programme of public user testing and consultation with the Electoral Commission, the Association of Electoral Administrators, Scope, SOLACE and territorial offices and following discussion with electoral services suppliers. The regulations also provide for police community support officers to enter polling stations and counting venues under the same conditions as police constables. This will allow police forces additional flexibility in deploying their resources on polling day, and will allow them to provide a greater visible reassurance to the public.

The regulations additionally make the same provisions as those to which the close of poll order relates—that is, they provide that voters waiting in a queue at the close of poll, at 10 pm on polling day, for the purpose of voting may be issued with ballot papers to enable them to vote or may return postal voting statements or postal ballot papers despite the close of poll. Members of the Committee may wish to note that relevant provisions in the Representation of the People (England and Wales) Regulations 2001 apply to mayoral elections and residential neighbourhood planning regulations, so amendments recently made to those regulations will also apply to these polls. These recent amendments include: a requirement for 100% of postal votes indicators to be checked, rather than the current minimum of 20%; the extension of emergency proxy provisions to those absent on grounds of business or military service; and the removal of the restriction on postal votes being despatched earlier than the 11th working day before the day of the poll. Where relevant and appropriate, the neighbourhood planning referendums regulations make similar changes for the purpose of business referendums.

Overall, these provisions make sensible and relevant changes for the conduct and administration of mayoral elections and neighbourhood planning referendums, in line with those that have been made already for UK parliamentary elections. They are designed to increase voter participation, further improve the integrity of our electoral system and ensure that the processes underpinning our elections are both more robust and more relevant to the needs of voters. I commend these instruments to the Committee.

Lord Kennedy of Southwark: My Lords, I shall deal with each of these regulations in turn. I intend to be fairly brief. The Electoral Registration and Administration Act 2013 (Commencement No. 4 and Consequential Provision) Order 2013 is welcome. It seeks to deal with the, frankly, appalling situation of voters turning up at polling stations and being denied a ballot paper. None of us will forget the scenes at the most recent general election of angry voters being denied their right to vote. That was wrong and reflected badly on us as a nation and as a mature democracy.

I note that the Electoral Commission has raised some concerns. As a former member of the Electoral Commission, though, I say that the Government are absolutely right on this. The concerns are slim and are a near impossible eventuality. It will, however, be important to get the guidance right across the piece. Unfortunately, when you are dealing with hundreds of returning officers, thousands of electoral staff and thousands of presiding officers on polling day, there is a risk of someone getting the application of the regulations wrong. I very much hope that the commission and the Government will seek the expertise to be found at the AEA, SOLACE and the political parties on getting the guidance right. It needs to be crisp, clear, straightforward and useful to implementing these regulations.

We also have to ensure that police officers or PCSOs are available as we get to the close of poll. I do not want to see disputes outside polling stations about who arrived at what time and who did not arrive on time. I am aware that we have already passed a previous SI in respect of the European elections, and these SIs refer to the UK parliamentary and local mayoral polls as well as neighbourhood planning referendums. Can the noble Lord confirm that we will pass SIs in respect of local authority and parish council elections in time for this year's local election on 22 May? Can he also tell the Grand Committee when the SIs will be laid for the local mayoral referendums, council tax referendums and PCC elections?

It is important that all these rules that relate to elections are kept under review. I was first involved in fighting elections 35 years ago—which I am sure noble Lords will find it hard to believe—and the changes that I have seen in that time have been enormous. The Government have a duty to ensure that the law keeps pace with the changes we see all around us. I have responded to a number of these statutory instruments in this House, during my time as a member of the Electoral Commission and as an official of the Labour Party for over 20 years. If there was ever an area of the law that needed consolidating and bringing together under one Act of Parliament, it surely must be the law in respect of elections and electoral registration. There are so many different aspects of the law in force in numerous Acts of Parliament, going back to who knows when, frankly, that it is confusing for everyone involved, in particular for members of the public, let alone practitioners.

I noticed in the amendment regulations that there are no numbers for the people standing in mayoral elections. I understand that that has been in force for some time—it is not new—but it had completely passed me by. Can the noble Lord tell the Grand Committee how taking away the numbers from the candidates helps people understand which candidate they are voting for? Normally you would vote for Gardiner number 1, Kennedy number 2, or Wallace number 3, but you now cannot do that because the numbers are not there. I hope that that will not be a trend in further SIs for other elections, particularly in local elections and where there are multiple candidates, as it would cause complete confusion.

I also note that the noble Lord made no mention of political parties. In parties, you have to have practitioners to understand elections—that is how processes work.

The Government should consult all parties on these issues, not just leave it to the Electoral Commission, the AEA and SOLACE, great bodies though they are. There are also important views to be had from practitioners on the other side of the fence. I hope that the noble Lord can respond to those points in his reply.

Lord Wallace of Saltaire: I thank the noble Lord for those helpful comments. As he was talking about his long experience in local elections, I calculated that my first election campaign was a mere 52 years ago. I say that with particular enthusiasm because, when I said during Questions this afternoon that I recalled debating the question of an English Parliament in 1968, the noble Baroness, Lady Warsi, was kind enough to turn to me and say, "You couldn't have been old enough". However, I was. The second election campaign I took part in was the Orpington by-election, which returned Eric Lubbock, now the noble Lord, Lord Avebury, to the British Parliament, which was a short while ago. So we have all struggled with election regulations and their proper consideration for some time.

I can recall as a young man talking to someone who had stood in a by-election during the Second World War, who told me just how many regulations had not been observed under those conditions and the efforts which some locals took to ensure that some votes were not counted. Nowadays we have some highly effective and dedicated EROs and others at local level with whom we have to co-operate in close partnership. The noble Lord is quite correct to say that perfection is not possible in every single polling station throughout Great Britain, but efforts are taken to make sure that, as far as is humanly possible, the same regulations are obeyed in the same way throughout the country.

3.45pm

On the removal of numbers, the research has suggested that this would decrease confusion, particularly in those mayoral elections where that peculiar Jack Straw innovation—the supplementary vote—is used. The noble Lord will recall that Mr Straw was willing to move 20% of the way towards the alternative vote but not to move very far, so people were allowed to put down "1" and "2" but not "3". I recall from when I was a candidate in Manchester that a number of people of Irish extraction would vote in our "X" system by putting down "1", "2" and "3" because that was the way in which they had voted in Ireland. We used to have great arguments as to whether those votes could be included, because it was quite clear what the intention was even though they had not voted in the right way. The conclusion from some detailed research is that not having the numbers makes the ballot paper rather clearer to those who are voting, whether or not the supplementary vote is being used.

The noble Lord also asked about regulations for other polls, including parish polls. I am delighted to be able to tell him that further regulations will be brought forward for me, him and others to discuss in due course in time for local elections in May. I hope that that answers all the noble Lord's questions.

Lord Kennedy of Southwark: The Minister may be correct about the effect of removing the numbers from the mayoral election ballot papers, but one of the big problems that such ballot papers cause is that many people go to vote and put a cross or mark by the second column and not the first, and are then disqualified. A huge number of people do that. It may make the ballot papers clearer to remove the numbers—I am not sure by how much—but the amount of votes discarded is a real problem. Can the Minister confirm that there is no intention to remove the numbers from ballot papers for local elections? As he will know, in the local elections in May, particularly in London but also elsewhere, there will be a number of candidates.

Lord Wallace of Saltaire: On that, I must write to the noble Lord. I am conscious that some extensive research has been done on the best design of all the papers used. What is coming back to us is information on what is felt to be most friendly and easy to understand for the local voter.

I can now tell the noble Lord, through the miraculous device of having officials behind me, that the Government recognise the concerns that have been raised by parties and electoral administrators about the proposal to remove numbers on ballot papers at local and parish elections and the impact that it would have in contests in multimember wards where the voter is electing more than one candidate. We will carefully consider the concerns that have been raised before we finalise the form of the ballot paper at these elections. I therefore look forward to further conversations off and on the Floor with the noble Lord and others on this question.

Motion agreed.

Local Authorities (Mayoral Elections) (England and Wales) (Amendment) Regulations 2014

Motion to Consider

3.48 pm

Moved by ***Lord Wallace of Saltaire***

That the Grand Committee do consider the Local Authorities (Mayoral Elections) (England and Wales) (Amendment) Regulations 2014.

Relevant document: 17th Report from the Joint Committee on Statutory Instruments.

Motion agreed.

Neighbourhood Planning (Referendums) (Amendment) Regulations 2014

Motion to Consider

Moved by ***Lord Wallace of Saltaire***

That the Grand Committee do consider the Neighbourhood Planning (Referendums) (Amendment) Regulations 2014.

Relevant document: 17th Report from the Joint Committee on Statutory Instruments.

Motion agreed.

Legislative Reform (Overseas Registration of Births and Deaths) Order 2014

Motion to Consider

3.49 pm

Moved by ***Lord Wallace of Saltaire***

That the Grand Committee do consider the Legislative Reform (Overseas Registration of Births and Deaths) Order 2014.

Relevant document: 18th Report from the Delegated Powers and Regulatory Reform Committee

Lord Wallace of Saltaire (LD): My Lords, this legislative reform order concerns a minor amendment to legislation that would allow the Foreign and Commonwealth Office to centralise and modernise one of the consular functions it offers to British nationals overseas. It would allow a minor change to Section 41 of the British Nationality Act 1981, which would in turn allow the FCO to amend its own regulations in order to centralise in the UK the registration of births and deaths of British nationals which occur abroad.

Consular birth and death registration is not a legal requirement. It is an optional service available to those born overseas who could have an entitlement to British nationality at birth and to British nationals who die overseas. There is no UK legal requirement for a consular birth or death registration. Consular birth or death registration does not confer British nationality.

To go into greater detail, Section 41 of the British Nationality Act limits the regulation-making power in such a way that, in nearly all cases, the registration must be done overseas. Once both the British Nationality Act and the FCO's regulations have been amended, the FCO will be able to establish a central consular birth and death registration unit in the UK, responsible for registering all consular births and deaths for British nationals overseas.

The draft legislative reform order was laid on 5 December 2013 by the FCO. It is proposed to be made under Sections 1 and 2 of the Legislative and Regulatory Reform Act 2006. This allows a Minister to make provision by order for removing or reducing any burden resulting directly or indirectly from legislation, and for improving the delivery of a service.

The FCO conducted a 12-week public consultation, from July to October 2013, which was sent directly to 18 expatriate organisations around the world and was promoted both on the gov.uk website and on the FCO's travel advice Twitter account, which has more than 47,000 followers. There were seven responses to the consultation; only three of these completed the survey's online questionnaire, all responding that they supported the proposed centralisation of the service. Some respondents did ask practical questions about how the new system would operate. The low response rate reflects the fact that this is a relatively low-volume and non-essential service. Following the consultation, the FCO decided to proceed with its plans. It concluded that, although the change may mean that a few expatriates may incur slightly greater costs in the short term because of the need to post original documents to the UK, the majority will benefit from not having to travel to an embassy or a high commission to submit an application.

The FCO intends to reduce fees for this service once the new central unit is up and running. The unit will provide a more consistent customer service, be more effective in determining complicated nationality decisions and provide a more modern online application and payment system, in line with the Government's digital by default strategy. Another determining factor is that centralisation will free up consular staff in the FCO's overseas network, allowing them to focus more on their primary purpose of assisting British nationals in distress overseas, particularly the most vulnerable. This is completely in line with the FCO's new consular strategy, which was launched in April 2013.

Following the laying of the LRO in December, the Delegated Powers and Regulatory Reform Committee confirmed its satisfaction that the order meets the tests set out in the 2006 Act. The committee was satisfied that the legislative reform order procedure is an appropriate way to amend the British Nationality Act 1981 and that the affirmative procedure is appropriate for the change proposed. The LRO is required to amend the British Nationality Act 1981 to allow the FCO to register in the UK births and deaths that occur overseas.

The current method of registration is inconvenient for many customers and inefficient for the FCO. This is partly because FCO staff are losing their nationality decision-making expertise overseas since the overseas passport service was transferred to Her Majesty's Passport Office and centralised in the UK. The FCO plans to centralise this service into a new single-purpose unit by the end of 2014. Centralisation will allow the FCO to make efficiencies, pass on savings to customers through reducing fees once the service is up and running, reduce the risk of making wrong nationality determinations and give greater focus to its primary consular function of assisting vulnerable British nationals in distress overseas.

Consular birth and death registration is not, I repeat, a legal requirement. It is an optional service taken advantage of by a small number of people, but it is available to those born overseas who could have an entitlement to British nationality at birth and to British nationals who die overseas. Consular birth registration is a separate service from passports and immigration. It does not confer nationality and does not necessarily lead to the issuing of a British passport. It is solely an optional means of recording a local birth overseas with an official English-language document. To manage customer expectations of the value of a consular birth certificate, the FCO will include a disclaimer to explain that the registration is not a UK birth certificate, does not replace the original birth certificate issued by the

authorities in the country where the birth took place, is not a certificate of identity and that the holder does not acquire British nationality through the registration.

Moving to an online system, with a common online application and payment procedure, will provide a more efficient and convenient procedure for customers. The IT will be ready and tested ahead of rolling-out centralisation from April. It will be a simple upgrade to the FCO's existing Compass system, which has been in use for many years. The FCO aims to be fully centralised by the end of 2014. If a customer has no internet access then the application may be made at the appropriate overseas post. As registrations are optional and rarely time sensitive, the FCO anticipates providing this assistance in only a small number of cases. It may help if I remark that in 2012 the UK registered some 6,200 births and some 550 deaths overseas; this is a small number.

In conclusion, I stress once again that the proposed amendment to legislation is a minor one that will help the FCO to modernise and make more efficient the consular service that it offers to British national overseas. This will help the FCO to reach its major goal of streamlining non-essential services and helping our most vulnerable citizens in trouble overseas.

Lord Kennedy of Southwark (Lab): My Lords, in respect of the legislative reform order, I have a few brief comments. The present regulations oblige the FCO to register births and deaths overseas of qualifying British nationals when asked. These procedures are different, depending on where the events took place. I accept that it is a complex process which needs trained and qualified staff to undertake this work.

I understand that the passport issuing service has been centralised from around the globe back to the UK some time ago. I can see the merits of setting up a similar procedure back in the UK, with a unit of trained staff which can develop real expertise in this area of work. Can the noble Lord assure me that this is genuinely seen as a sensible efficiency measure and not some sort of back-door reduction in services? Can he tell the Grand Committee that he is confident that, in all cases, this new system will be better and that at no point will a British citizen living abroad be disadvantaged by moving to this new system?

Whether it is the joyous occasion of a new life being brought into the world or the death of a loved one, the official processes that have to be gone through should be done as simply and quickly as possible. In the case of deaths overseas, there will also be conditions from the country in which the death occurred that will need to be complied with. From the points that the noble Lord made, he has assured us that in no case would getting a body back from abroad be more difficult with the adoption of the legislative reform order. In respect of births and death, is this purely an optional process that people and families can use, or not, as they decide? If that is the case, I have no further points to make on this order.

Lord Wallace of Saltaire: My Lords, the noble Lord touched on a number of wider issues. On British citizens resident abroad, we are in a different world from 50 or 100 years ago. That is part of why we need to adjust. After all, communications are now infinitely more rapid and easy than they were even 50 years ago. My wife spent five years working in Florence, and we spent some time talking to the British consul-general in Florence, who used to play a large role in the days when a relatively small number of rich British people lived in Italy, out of touch with Britain and needing the help of the local consul. Now that they fly whenever they like from Florence airport to Gatwick, there are instant communications and we are all within the European Union—and long may that last—we do not need consular services of that type.

Part of what has shifted has been that we are therefore operating on a different level. The numbers of British citizens living abroad and, even more, the number of British visitors abroad has mushroomed on an astonishing scale over the past 50 years. I find it quite surprising how small the number of registered births and deaths from abroad has been, given that I have this image—partly from my elderly parents' stories of holidays in Spain and Portugal—that lots of elderly people go on holiday to those countries and do not quite make it back afterwards. Obviously, this is not a wide-scale activity.

I would argue that this is a sensible efficiency measure, which allows for careful checks of people's backgrounds and allows the local staff to concentrate on those who are vulnerable—including, of course, those who fall ill while abroad—those who are charged with crimes or indeed imprisoned while abroad and the families of those who die while abroad.

Motion agreed.

Localism Act 2011 (Consequential Amendments) Order 2014

Motion to Consider

4.02 pm

Moved by ***Baroness Stowell of Beeston***

That the Grand Committee do consider the Localism Act 2011 (Consequential Amendments) Order 2014.

Relevant document: 17th Report from the Joint Committee on Statutory Instruments

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Stowell of Beeston) (Con): My Lords, the Localism Act 2011 introduced council tax referendums as a replacement for the previous capping regime. It did this by amending the Local Government Finance Act 1992, into which it inserted a new chapter—Chapter 4ZA—on council tax referendums and a new Section 31A, which changed the way local authorities in England determine their council tax. Other consequential amendments were made to legislation, including to the Greater London Authority Act 1999.

The order before the Grand Committee today updates the legislation to take account of changes that have taken place since the Act was passed. The order corrects

[Baroness Stowell of Beeston]
several minor drafting errors, such as the incorrect classification of grant repayments as income rather than expenditure, and it provides a route for the GLA to recover from errors and oversights during the budget setting process. I do not propose to cover each of the amendments in detail, but I will just give a summary of what each article in the order does.

Article 2 details how local authorities should take account of any transfers from their general fund to their collection fund when determining their council tax requirement. Such transfers would be rare but theoretically possible, so it seems sensible to include a reference to them in legislation.

Article 3 makes it a requirement for major precepting authorities, such as county councils, when estimating their expenditure for the year, to take account of certain payments which may become due to billing authorities. This is again a minor amendment to ensure that legislation captures all the existing payments and transfers between authorities.

Article 5 corrects a drafting error in amendments made to the Greater London Authority Act 1999 by the Localism Act 2011. It requires repayment of grants by the GLA to be classed as expenditure rather than—as currently, and incorrectly, stated—as income.

Article 6 removes a redundant reference in the GLA Act to "relevant special grants".

Article 7 also amends the GLA Act to address an unforeseen deficiency in the statutory timetable for the GLA when setting and revising its budget and council tax requirement. If the GLA were to set an excessive council tax increase, in common with the obligations on all local authorities it would be required to hold a binding referendum to seek local agreement to the increase. As part of this process, the authority would be required to draw up an alternative budget that did not require an excessive increase in council tax, which could be adopted if the referendum was lost. There are fixed statutory deadlines for these budgets to be set, revised and approved. Currently it is possible for the GLA, through error or oversight, to set an excessive council tax increase without leaving itself sufficient time to gain approval for an alternative, non-excessive budget. Article 7 provides the GLA with a way to recover from such a situation, by allowing the Assembly to approve a revised non-excessive budget at a later date.

A copy of the draft order was shared with the GLA and revised in the light of their comments. I commend the order to the Committee. I beg to move.

Lord McKenzie of Luton (Lab): My Lords, I thank the noble Baroness, Lady Stowell, for introducing the order. I do not think we will detain her long in our consideration of the amendments that it makes, although this is one occasion—perhaps the first—when I found the Explanatory Note somewhat more impenetrable than the actual instrument.

As we have heard, the amendments focus on aspects of the calculations necessary as a result of the changes brought about by the Localism Act for so-called potentially excessive amounts of council tax. They amount to a capping regime and are driven by the determination of basic amounts of council tax for a financial year, rather than, as previously, budget requirements. Whatever our views on these arrangements, we accept that the detail of the calculations and the process should be logical.

Article 2 is said to be consequential and aimed, it seems, at ensuring symmetry by making sure that sums transferred from an authority's general fund to its collection fund are excluded from the calculation of expenditure, just as funds transferred in the opposite direction are excluded from income. I think that that is the purpose, but I presume that this is not retrospective. Can the Minister say what the impact has been on any specific local authority situations of these provisions being absent? Is it possible that a preceding year has been done on the basis of the current rules, and can she therefore say what the implications of this change are?

Article 3 requires estimated expenditure as well as payments and receipts to be taken into account when calculating council tax requirements. Will the Minister assure us that there will be no double counting, whereby amounts estimated for one period are excluded from a later calculation when they are actually paid?

Article 5 is a consequential amendment to ensure that repayment of grants are taken into account on the expenditure side of the equation rather than netted as income. The Minister said that this corrected an error in the drafting. Can the Minister say a little more about the nature of the grants involved and the implications of the provision? How many authorities' calculations have treated grant repayments as income to date, and how will matters be rationalised if they have? What is the impact of this? Does the new treatment affect the calculation of amounts of council tax in any circumstances?

So far as Article 6 is concerned, we accept that the provision is purely consequential.

On Article 7, the Explanatory Note was most difficult to fathom, but at the end of the day it seems to be essentially about a process issue. We understand that there is currently a range of circumstances in which the London Assembly has to initiate a substitute consolidated budget, or substitute council tax requirement, where the Mayor has failed to present one. However, currently these have to be made within statutory deadlines. Where a major precepting authority fails to notify an excessive increase to a billing authority, the precepting authority must issue a precept based on substitute calculations. However, until it does so, the billing authority cannot pass any funds back to the precepting authority, so it needs to have a process for making substitute calculations at a later date. Is our understanding of that correct? Is that all there is to this article?

Subject to any points the Minister may make, we certainly would not seek to resist the order.

Baroness Stowell of Beeston: My Lords, I am grateful to the noble Lord, Lord McKenzie, for his comments and his point that, while we may differ on the underlying principles associated with the order, he agrees with us on the need for accuracy and, therefore, the importance of making the order.

The noble Lord raised a few questions which I will seek to address. He asked whether the order was retrospective and I can confirm that it is not. On Articles 2 to 5, he asked whether there had been any problems related to these inaccuracies being in place. We are certainly not aware of any reported problems, losses or errors on the part of local government due to the issues addressed by these articles. These are things which we see are inaccurate and need to be changed, but we are not doing them because we have had things reported to us as problems which need to be taken care of. The noble Lord also asked about double counting. Based on the information that I have given, I can confirm that the concern that he raises would not arise from the changes we are making.

Let me add a few more points to reassure the noble Lord. We are making the amendment in Article 3 because payments made by billing authorities to precepting bodies are sometimes subject to revision during the year, which could involve the precepting body making a payment back to the billing authority. The article requires major precepting bodies to take into account any estimate they make of such payments.

The noble Lord asked whether Article 5 would affect the basic amount of council tax calculations. The answer is no. There was, as I said, a drafting error when the provisions were first produced, so it is right to make that change; it is clearly inappropriate for them to remain in place.

The noble Lord also gave his assessment of what Article 7 meant, which is that it concerns a process issue, and asked whether his understanding of it was correct. He is absolutely correct. This is about process and about making sure that the Greater London Authority is acting in line with all local authorities in the way that it is required to set its council tax and consult its electorate. The order will make sure that, if it is necessary for the authority to hold a referendum because its budget is excessive, it can both do that and introduce a lower council tax rate should the referendum not support the excessive council tax increase. I assure the noble Lord that this is purely about process, and I hope that we will ensure that the situation that the GLA inadvertently found itself in is not repeated. I think that I have covered all the issues raised by the noble Lord.

Lord McKenzie of Luton: I am grateful for those further explanations. I do not propose to prolong this, but perhaps I might come back to Articles 2 and 5, which deal with drafting points. My question is: in respect of prior or current periods, were calculations done on the basis of the legislation as it is before the amendment, or did they anticipate the drafting errors and were therefore done on what we would now call the correct basis? If it was the latter, all well and good; if it was the former, I wonder what the implications of that are.

Baroness Stowell of Beeston: Yes, I can confirm that they were operating in line with these amendments: they have not been operating outside of the requirements of the Act.

Lord McKenzie of Luton: I am grateful for that.

Motion agreed.

Child Support Fees Regulations 2014

Motion to Consider

4.16 pm

Moved by ***Lord Freud***

That the Grand Committee do consider the Child Support Fees Regulations 2014.

Relevant documents: 18th Report from the Joint Committee on Statutory Instruments, 23rd and 27th Reports from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): My Lords, I will speak also to the draft Child Support (Ending Liability in Existing Cases and Transition to New Calculation Rules) Regulations 2014.

These regulations were laid before both Houses on 2 December 2013. They enable the department to charge application, collection and enforcement fees for the statutory child maintenance scheme introduced in 2012, which is delivered by the Child Maintenance Service. They also make provision for the department to close cases on the 1993 and 2003 schemes delivered by the CSA, and specify the means by which existing clients must exercise their choice to make an application to the 2012 statutory maintenance scheme. I am satisfied that these instruments are compatible with the European Convention on Human Rights.

Before addressing the regulations in detail, I should emphasise that the programme of reform began in 2006 when Sir David Henshaw delivered an independent report on the future of child maintenance. In his report, Sir David recommended stopping using the CSA as a default option for parents, and introducing charges to provide both parents with an incentive to collaborate. Since then, as part of our reform programme, we have ended compulsion on parents on benefits to apply to the CSA, secured the powers to introduce a new child maintenance system and introduced a full disregard of child maintenance for the purpose of assessing benefit entitlement from 2010.

All these actions have been about helping parents to collaborate in the best interests of their children and to reduce levels of conflict between parents after a separation. This is because evidence suggests that children do better when their parents work together. We are taking a twin approach to increasing the number of parents who work together after a separation to agree child maintenance rather than relying on state intervention. First, we are supporting them to work together on not only child maintenance but the whole range of issues faced following a separation. Secondly, we are incentivising them to think twice about whether they could set up a more collaborative family-based child maintenance arrangement without automatically turning to the statutory scheme.

[Lord Freud]

We are therefore reforming the child maintenance landscape to put collaboration and family-based arrangements at the centre. We are investing £14 million in the Help and Support for Separated Families initiative, directing parents to the support they need during and after separation. For those unable to make family-based arrangements, the new, faster, more efficient 2012 statutory scheme, delivered by the Child Maintenance Service, will be there. The 2012 scheme has a built-in HMRC interface.

We opened the 2012 scheme using a pathfinder approach in December 2012 and, following assurance that the processes, procedures and client interfaces were working well, we opened the scheme to all applicants on 25 November 2013. Those making an application to the statutory scheme will be invited to enter into a discussion with the Child Maintenance Options service, which provides free, impartial information and support on the various ways to set up maintenance arrangements. This conversation gives parents the information they need to consider what is the best arrangement for them.

We propose to introduce fees for those wishing to apply to the 2012 scheme and for continuing to use it. Sir David Henshaw's report recommended this as a balanced incentive. His argument was that people are more likely to consider whether a service is necessary for them if a charge is applied for it.

Evidence shows that more than half of parents with care using the Child Support Agency could reach their own family-based arrangements with the right support. We launched a consultation on the draft Child Support Fees Regulations 2013 and the draft Child Support (Ending Liability in Existing Cases and Transition to New Calculation Rules) Regulations 2013 to seek feedback on our proposals, and published the Government's response in November 2013.

We listened carefully to the feedback and reduced the proposed application fee from £100 to £20. Vulnerable applicants who declare that they have experienced an incident of domestic violence or abuse and have reported it to one of the organisations named in the guidance referred to in the regulations will be exempt from paying the application fee. Those under 19 years of age will also be exempt.

We have reduced the parent with care collection fee from the proposed "7 to 12%" to 4%. By reducing the fee to 4%, we have shifted the balance in favour of the parent with care even further so that it stands in a one-to-five relationship with the 20% non-resident parent fee. It is also charged only on money actually collected. It is the non-resident parent who faces by far the highest charges, reflecting the fact that they have greater control over whether they use the collection service. We believe that both parents should make a financial contribution towards the cost of the service. The proposed fees will bring in revenue of £170 million per year. This is a financial contribution towards the cost of the service, which remains heavily subsidised by the taxpayer.

We wanted to ensure that there was provision to enable parents who need to use the statutory scheme to avoid ongoing collection fees. We have therefore introduced Direct Pay. Direct Pay is where the Child Maintenance Service calculates the amount payable and the non-resident parent makes payments directly to the parent with care. Direct Pay will provide a way for parents to access the statutory service in a way that can help rebuild trust between them. We are also proposing enforcement charges for non-resident parents to encourage them to comply with their commitments and to help to offset the cost of administrative action to enforce compliance. The current system offers no financial incentive for non-resident parents to pay in full and on time.

There are currently three statutory schemes in operation: the 1993 and 2003 schemes, delivered by the CSA, and the new 2012 scheme, delivered by the Child Maintenance Service. We propose that cases will close on the 1993 and 2003 statutory schemes. We considered the responses to the consultation on these regulations and have altered our initial approach.

The main change is the order in which cases are selected for closure. The details of this order are included in the scheme that accompanies these regulations. We will divide the caseload into five segments and close them sequentially. To summarise: the first cases to be closed are those where the non-resident parent is assessed to pay a nil amount, followed by those where the non-resident parent is non-compliant. The next cases to be closed will be those handled off the system, followed by the remaining compliant cases.

The final group of cases to be selected will be those where there is an enforced method of payment in place, or legal enforcement action ongoing. Non-resident parents in this category will be invited to undergo a positive test for compliance. They will be required to demonstrate their ability to pay voluntarily for a period of six months. This will inform the department's decision as to whether they should be allowed to pay the parent with care directly, and avoid collection fees, if an application is made to the 2012 scheme.

This programme of reforms aims to promote collaboration between separated parents in order to ensure that their children achieve the best outcomes in life. We have consulted on both the fees and the case closure proposals, changing our initial proposals on fees and the sequence in which cases will close. I have held two briefing sessions in the House of Lords with the aim of keeping noble Lords fully informed on the reform programme.

I understand that introducing fees to encourage collaboration is a significant change, but emphasise that under Section 141 of the Welfare Reform Act 2012 we have committed to reviewing the effect of the fees regulations within 30 months of their coming into force, and to laying a report about the conclusions of that review before Parliament.

I spoke earlier of the careful way in which we introduced the 2012 scheme. We will continue with this approach, and will not introduce fees or begin the process of closing cases on the 1993 and 2003 schemes until we are confident that the 2012 scheme is working well. We anticipate that this will be in the summer. Those on existing child maintenance schemes will have already been told about case closure and the introduction

of the charging of fees. We will not begin charging collection fees until six weeks after the regulations come into force, so anyone affected will have plenty of notice about when the collection changes will begin to affect them personally. I beg to move.

4.30 pm

Lord Mackay of Clashfern (Con): My Lords, I want to comment on Regulation 7(3) of the fees regulations and, incidentally, on Regulation 8(2). I have interests in children's charities and care organisations, which may or may not be relevant to what I am going to say now but I declare them for caution.

It is rather remarkable that the Explanatory Memorandum comments on this provision and puts the point rather succinctly:

"The introduction of fees is politically significant. Child maintenance elements of the Welfare Reform Act 2012 had a difficult passage through the Upper House and charging persons with care, often single mothers of limited means"—

I do not know how many people are of unlimited means, but anyway it is quite clear that these are people of rather limited means—

"remains a controversial issue for stakeholder groups, service users and the wider public".

I assume that I am included in the wider public.

I am entirely in favour of everything that can be done, and that this Government are doing, to try to help people who have had a relationship that has broken up. I am familiar from long ago with divorce cases; I did a lot of them but, as the Committee knows, that was a long time ago. However, the difficulties of interpersonal relationships were as formidable then as they are now, and I wish every success to the moves that have been made to try to help people by the Department for Work and Pensions, the Ministry of Justice and the Department for Education, which are involved in the Children and Families Bill, which is having its Third Reading tomorrow. I went to a meeting that Ministers organised in connection with that Bill, and I had to remind them that the DWP was also working in this area of trying to help people. Of course, they said that they work very closely together, so I am glad to hear that. The closer they get together, the more chance that their measures will be successful. As I say, I wish them every success in that. Unfortunately, so far those efforts have not produced universal success, and the regulations contemplate at least the possibility that they will not have universal success in future.

The point that I want to stress is that when it comes to the obligation to maintain a child, the parents' obligation is absolute. It does not matter what sort of dispute they have had with the other party to the arrangements in the past. I accept immediately that there are many different types of squabble that can emerge, and it is by no means clear that the non-resident parent is always fully responsible. I entirely understand that for the question of the break-up of the arrangements, both parties usually have some degree of responsibility. When it comes to the payment of maintenance, though, that obligation is absolute and is not qualified by the fact that the other party to the arrangement has been terrible, difficult or whatever. That is what these fee regulations are concerned with.

The collection fee that I have referred to appears when the collection system comes into operation. That happens only when the Child Maintenance Service, not the other party, is satisfied that without the collection service, maintenance is unlikely to be paid. That is in Section 137 of the Welfare Reform Act 2012. The decision that the collection service comes into operation, with its charges, is entirely the responsibility of the Child Maintenance Service and has nothing whatever to do with any responsibility of the parent with care. In that situation, the imposition of the collection charge on the parent with care is unjustified in principle.

Of course, this is not by any means the first time that I have raised this issue, and I thank the departmental Ministers, who have changed over time, for the courtesy with which they have listened to the same thing being said again and again. That has not been an altogether unproductive process, because concessions have been made that I warmly welcome. The concessions are narrated in the Explanatory Memorandum; I will not weary the Committee by going over them but I agree that they are quite substantial. The most recent one was the reduction from the 7% to 12% charge that was originally thought of to 4% in the case of the parent with care. As I say, I welcome that very much and am glad that it has happened. However, as the Explanatory Memorandum says, this charge remains controversial, and I think it is unjustified in principle.

I did not feel inclined to table a Motion of Regret or a Motion to set aside the regulations, for pretty obvious reasons but primarily because the Government know what our House decided about this matter long ago. Of course, it was overcome by the financial protection of the House of Commons and therefore went through. But as the Explanatory Memorandum says, the passage through the upper House was not entirely easy. That vote is there and, as far as I know, opinion on that point remains.

I submit that the review that is to take place 30 months after the matter comes into force will take particular account of this point, which I am sure will remain controversial until the inquiry is completed, whether or not I am here to promote it—although that may be a matter of opinion. I do not intend to weary your Lordships further but I do wish to indicate the principled objection to this that remains.

Baroness Howe of Idlicote (CB): My Lords, your Lordships may remember that I was one of those who supported the noble and learned Lord, Lord Mackay of Clashfern, in the very important amendment that he has just referred to. I, too, remain concerned that despite the concessions made by the Government in reducing the application fee for a child maintenance calculation to £20 and reducing the parent with care collection charge by 4% on every payment—on which I congratulate them—there is a real danger that the effect of the new charging regime will be that fewer children end up with fair and reliable child maintenance.

In this respect, I share the conclusion of the Secondary Legislation Scrutiny Committee, which found that,

"although the transfer scheme may make savings it may imperfectly achieve the overarching objective of providing financial support for children".

[Baroness Howe of Idlicote]
I want to press the Minister for assurances that the Government will closely monitor what happens to maintenance for children whose CSA cases are closed during the next three years. After all, the department has details of the parents and children so can track what happens to them, case by case, in terms of future maintenance arrangements—or the lack of them.

It will not be enough for the Government to congratulate themselves if fewer parents apply to use the statutory maintenance service, unless they know for certain that the parents concerned have made private arrangements for maintenance that result in regular payments of realistic amounts for the children concerned. Similarly, it will not be enough to be satisfied that fewer parents are asking to use the collection service and have opted for a direct payment arrangement—again, unless they know for certain that those direct payment arrangements are resulting in regular payment of the liabilities that have been calculated by the Child Maintenance Service.

In the past, the department has said it can assume that every direct payment arrangement is paid in full and on time because, if not, parents with care would ask to use the collection service. Even if this assumption were true now, it will certainly not be true in the future, given that the collection charges are expressly intended to deter parents from asking to use the collection service, regardless of the circumstances. I therefore seek full assurances from the Minister that the department will track in detail how children fare as their CSA cases are closed down and charges are brought in.

Lord Kirkwood of Kirkhope (LD): My Lords, it is a pleasure to follow my two colleagues in this important debate. My noble and learned friend Lord Mackay led the House in earlier stages of the Bill in a commanding and profoundly serious way. His weight being added to this question is something to which I hope that the Minister and department will pay careful attention; that is also true of the noble Baroness, Lady Howe.

I underscore what my noble and learned friend Lord Mackay emphasised at earlier stages of this discussion: the fee money that we are talking about is actually the child's. My noble and learned friend is right to point to the clause in the memorandum that says that this is controversial; that is why it is controversial. This money which is being taken out of the system should be going to the assistance of, mainly but not exclusively, poorly paid families who are doing their best to struggle to bring up children in very difficult circumstances. That controversy is not going to go away. I pay tribute to my noble and learned friend Lord Mackay and the noble Baroness, Lady Howe, for the work that they have done in the past.

I also acknowledge that there have been concessions, and I do not think that my noble friend the Minister needs an alibi. He has other fish to fry; this is none of his business. It is a very bad change. I actually take a more fundamental view. I have been of the opinion since 1991, when I started on all of this, that charging was wrong in principle. I am long enough in the tooth to remember the period during 1993 and 1995 when we tried charging. I have said this before: it was a disaster. Why? Because nobody collected any money. They were not collecting fees or enforcing debts, so people were saying, "Why are we paying these fees when we are not getting any money?". The scheme was quickly abandoned. We need to learn lessons about that. I do not believe that even the new, all-singing, all-dancing Child Maintenance Service—while the improvements are welcome—can offer guarantees that the enforcement will be effective.

Changing the balance of my concern, because I have always been really worried about the parents with care more than anything else, some of the charges which are going to be levelled at the non-resident parents are eye-wateringly high. There are a lot of non-resident parents out there who do not understand the difference that will be made with the combination of a recalculation and a collection fee. I wait with bated breath to see where this new co-operation which is going to break out all over the place is going to start. It is fantasy. A long time ago I was a divorce lawyer, and I know what people can do one another when they separate. It is sometimes quite unbelievable. I am sure that my noble and learned friend Lord Mackay, with his previous distinguished legal career and all his work with children's charities, would reinforce that. I object to fees in principle. I do not think that they will work. I hope that I am wrong, but that has always been my position and it is worth restating.

Secondly, this system that we have used for charging fees is flawed. Again, I agree with everything that my noble and learned friend Lord Mackay has said, but I want to add a point which has been drawn to my attention by Gingerbread, which is right in saying that if the Child Maintenance Service has the weight of decision in testing the question of "unlikely to pay or not"—to allow the parent with care to join or stay in the service—that is a contestable decision. It is an important decision for both parents. It is an administrative decision which is taken out of both their hands. I do not know what assurances have been given, or whether there is anything that I have missed in the regulations which makes it a requirement to explain in detail why that decision has been taken, but it seems to me contrary to natural justice. In any other area of public life where such an administrative decision is made an inbuilt independent appeal is automatically attached to it. That is entirely absent from this new system. I appeal to my noble friend to go away and look at the provisions in the Child Maintenance and Other Payments Act 2008, Section 6(5), where, I think, the Secretary of State is given discretion about introducing an appeal. As part of the undertaking that I hope my noble friend will give to the Committee to continue to monitor all this carefully there should be the possibility of the Secretary of State making that discretionary decision, so that we can have an appeal available, if it becomes obvious—as I believe it will—that it is necessary.

4.45 pm

The statement that charging will induce these behavioural changes is completely fallacious. The David Henshaw report came out of the blue, to put it mildly. I did not know him before, and I have not seen or heard of him since. However, his report was devoid of evidence—there was no evidence for this ex cathedra

statement that fees would suddenly make all the difference, the scales would fall from people's eyes, they would fall into one another's arms and they would say, "Let's agree it is £40", or £50 or £60. It is not real; it will not happen. In particular, 2 million parents will be caught by the CSA closure programme over time, 36% of whom have been apart for more than 10 years. A charging regime, we are asked to believe, will drive them together so that they can avoid paying the charges. What it will actually do is cause a whole new level of tension within the families. If the parties have been apart for more than 10 years the children have probably flown the nest, and that is probably the safest place for them when such questions are being considered. It is fantasy. I hope I am wrong, but I think it is nonsense. This whole policy is built on sand.

Another point is that for the first time—and this changes the dimension the department is now operating in—the DWP is conflicted about, on the one hand, garnering fees to pay the Treasury debts that it has incurred, and on the other, making proper financial provision for children in lone-parent families, many of them serially disadvantaged. I received an interesting answer to a question I asked. Over a 10-year period, from 2013-14 to 2022-23, fee revenues are estimated at £1.612 billion. You may say, "Well, there have been concessions, and it is down from 7% to 4%", and so on. The noble and learned Lord, Lord Mackay, made these points, rightly, and I agree that that is a welcome change, and 10 years may be a long time. However, that is £1.612 billion that is not going into family household budgets. The department is now in a very different situation; it is not trying to do its best for families, but trying to save money. It cannot successfully do both. The more fees it collects, the less chance it has of looking after these families and the children in them. By the way, I do not understand the analysis of future fee income, but it got past the Treasury and maybe that is all it was designed to do.

I will make two further points. It is wrong to start charging in case closure until we know support systems are put in place. The Minister reminded us that there will be £40 million over quite a period of time; a £20 million-period of expenditure will end in 2015, which will set up the help and support for its separated parents pilots. However, let us be careful and think about this, as the pilots will end in 2015, and we heard earlier that this charging process and the case closure will roll out earlier than that. Therefore it is not just a question of the system being there and waiting.

By the way, it is not safe for the department to rely on the fact that there are a lot of relational support services for separating parents. There are many, and they are very good, but they are designed in the main to deal with newly separated parents who are willing to work together, not people who have been apart for more than 10 years. Therefore the contexts in which those questions are tested and in which the support is offered are totally different. It is not safe to go into this new domain, where the pilots have not been evaluated; I have no confidence in it. I do not mean that the people who are doing it are acting in bad faith; I am sure that they are doing their absolute best and that they are sincere. The resources that were put behind them are inadequate for the task. If we are raising £1.612 billion over 10 years, surely to goodness we can think about spending a little more money to support those families who will find themselves in that new and challenging set of circumstances.

Finally, how well is the shiny new Child Maintenance Service doing? As the Minister said, it has been in operation for more than a year and took all-new applicants for the first time in November last year. I would like to know what proportion of current CMS cases have been paid in full right now. If the Minister does not have that information in his inside pocket, I would be pleased to hear about it as soon as possible. I know that those figures will come out in due course, because the quarterly statistics are informative and regular, and we look forward to seeing them. However, if there is any way of getting an early rush on how the proportion of current CMS cases have been paid in full or not, I would be keen to see that this afternoon.

Secondly, how much is owed in current CMS arrears since it began a year ago? The point of those two questions is that if we taking enforcement seriously—in my experience that would be the first time since 1993—we must make enforcement professional, efficient and workable, otherwise condemning people to pay fees is contrary to natural justice, bad policy, and worst of all, inimical to the interests of the long-term future of many of our impoverished children.

Baroness Sherlock (Lab): My Lords, in speaking to these regulations I declare an historic interest as a former non-executive director of the Child Maintenance and Enforcement Commission until 2010, and a very historic interest as a former chief executive of the National Council for One Parent Families, which is now lost in the mists and merged with Gingerbread.

I thank the Minister for his explanation of these regulations, and I am grateful to other noble Lords who have spoken on this for the illumination they have added. Most of the time, when I face the Minister across the Dispatch Box, I would happily change places, but when he faces down the noble and learned Lord, Lord Mackay of Clashfern, he is welcome to that seat, at least for the duration of these proceedings. I wish him well in answering the points raised by the noble and learned Lord.

I thank all those organisations who sent in briefing, including Gingerbread and the Resolution Foundation and, indirectly, Families Need Fathers. We on this Committee are also indebted to the noble Lord, Lord Goodlad, and his Secondary Legislation Scrutiny Committee, which did an extraordinarily thorough job on these regulations. It identified gaps and question marks and pursued Ministers gently but persistently, drawing information from them bit by bit until it got answers. I put on record my appreciation of its intelligence, analysis and perseverance.

These are significant regulations, and despite the lengthy impact assessment, we all know that we do not really know what will happen as a result of both the new scheme and the charges being imposed on both parents. The Government's aims for these reforms, which were set out clearly in the Green Paper, *Strengthening Families, Promoting Parental Responsibility*, were twofold: to achieve cost savings for the taxpayer

[Baroness Sherlock]
and to create an incentive for parents to work collaboratively to make family-based arrangements rather than enter a statutory scheme.

The Secondary Legislation Scrutiny Committee's excellent 23rd report of the current Session draws these instruments to the special attention of the House on the grounds that they may imperfectly achieve their policy objectives, so it is important for the Minister to reassure the Committee on this point. Specifically, the Select Committee says:

"we conclude that although the transfer scheme may make savings it may imperfectly achieve the overarching objective of providing financial support to children".

The Committee engaged in a correspondence with the relevant Minister in another place, which eventually drew more information out but in my view was not ultimately satisfactory in providing assurance on that point.

I shall ask the Minister to reassure the Committee on those broad points and then ask some specific questions. First, a number of noble Lords have raised behavioural issues. The impact assessment assumes that fewer cases will enter the statutory scheme as a result of the change, but also suggests that the proportion of arrangements affected will rise from the current 60% to 70%. The assumptions seem to be rather optimistic. The present pattern of compliance in family cases is one thing, but that is not necessarily a guide to what we may expect to see in future. As my honourable friend Kate Green put it in another place, at the moment we have parents who may be choosing positively to co-operate, but in future parents with family arrangements will be those who simply see it as the lesser of two evils. There will therefore be a different set of arrangements going on in family arrangements from those that prevail at the moment, so how confident is the Minister of those figures?

On the cost objective, the Government are clear that they expect to score substantial financial gains from the new scheme being introduced, especially as the result of charging fees. Fees both bring in income and reduce running costs, as parents are deterred from using the system. However, I looked in vain for a parallel level of ambition to increase the amount of child support that would actually reach children, a point made by the noble Lord, Lord Kirkwood. What are the Government's ambitions in that connection? After all, the point of a child support scheme is not to be efficient. It should be efficient, but its point is in fact to get money from the non-resident parent to the parent with care. Presumably the Government have some ambitions for increasing the amount of maintenance that is going to be transferred to children as a result of the reforms. Could they help us on that point?

I also have some questions about the implementation of the new scheme, some of them touched on by the noble Lord, Lord Kirkwood, and some by the noble Baroness, Lady Howe. This is crucial as the Government always said that they would not introduce fees until phase one of the new system was working well. The Minister told us that the scheme started in November and that they aimed to move people on from next summer. Can he tell us a bit more, as the noble Lord, Lord Kirkwood, also asked, about how the new scheme has been performing so far? I will certainly be interested to hear the answer to the noble Lord's question about how many cases have been paid in full.

How is the interface with HMRC working? I am particularly interested in self-employed non-resident parents. There is the issue of who is responsible for enforcement. I am assuming that that will lie with the CMS but it would be helpful if the Minister clarified that. A common complaint is when a self-employed NRP declares very low levels of profit on, for the sake of argument, his business but the parent with care believes, or has evidence based on his apparent lifestyle, that in fact a much higher level of income is coming in than might be suggested by the latest set of accounts made available to the taxman. At the moment, if she has that evidence she can go to the CSA and it can investigate that. If that should happen in future, does the CMS have the powers to investigate that or will it be left to HMRC? If the CMS has the powers, will it exercise them? If it is HMRC, what assurances has the Minister had that it will do this and prioritise it over the other workloads placed on its shoulders?

When does the Minister expect to be in a position to publish a full range of statistics on cases being dealt with by the CMS? Will these stats show how many cases transfer from direct pay to collect and pay? See—I have got the jargon. It would be helpful to know what was happening to cases going into the scheme.

By what precise criteria will the Government decide when to commence the full new regime? A Written Answer to my honourable friend Kate Green in another place on 23 January said that the Government will determine when the new scheme is operationally ready for the transfer of cases in accordance with the criteria of,

"the Department for Work and Pensions Project Change Lifecycle Framework".—[*Official Report,* Commons, 23/01/14; col. 263W.]

I apologise that I am not immediately able to translate that for the Committee, but perhaps the Minister can do it for me. What does that mean and how will it be applied?

5 pm

The noble and learned Lord, Lord Mackay, gave us the benefit of his wisdom, gained over many years, about what happens to divorcing couples and the challenges that will be faced in dealing with family-based arrangements. That point was taken up by the noble Lord, Lord Kirkwood. I, too, worry that the Government are being overly optimistic about how easy those parents will find it to make family-based arrangements. I have seen a copy of a joint letter to the Government from Gingerbread and Families Need Fathers, which says that 13% to 14% of parents describe their relationship with the other parent as "not friendly" and more than 40% of parents in the current scheme have no contact with one another at all. That is a pretty big standing start, to go from no contact to being able to agree a familial arrangement. I am very interested to know what kind of support will be available to people in that situation to help them to do it. The noble Lord, Lord Kirkwood, also raised this important point.

The Government have said previously that their aim was to offer an integrated model of family support services but, as the noble Lord, Lord Kirkwood, pointed out, the pilots are getting up and running only now and some are not due to start until May. Can the Government explain how they are holding together their plans to move some of the longer-standing cases, where the parents are least likely to be in contact, on to the new scheme early with the kind of provision of help they will need to enable them to do this?

Turning to the question of fees, I would be grateful if the Minister could clarify the purpose of introducing the fees. Is it to bring in money to offset the costs of running the scheme, or is it to try to disincentivise parents from using the scheme? It would be helpful to the Committee if the Minister could make that clear. If it is the latter, either solely or in part, what thought have the Government given the kinds of parents who may be deterred? The Government's own statistics show that a third of new CSA applicants have already experienced a broken private arrangement; more than half have experienced violence or abuse from the non-resident parent; and almost six in 10 have poor or non-existent relations with the other parent, as we have just discussed. So there will be some—possibly many—parents with care who have good reason to want to use the statutory scheme, and the Government need to think carefully about the consequences if the fee regime was used to deter them.

I would also like to understand the role the fees are playing. The noble Lord, Lord Kirkwood, has been busy with Written Questions, and he drew out from the Government not just the fee income that is predicted but cost saving that the service is anticipating over the next 10 years—not just in the current scheme but the additional costs that will have to be invested. Does the DWP want to encourage parents to use the statutory scheme to pay fees so that it can use the money to offset its costs, or does it want to deter them from using the scheme because that way the running costs will be lower? Given that, what steer has been given to parents?

The noble and learned Lord, Lord Mackay of Clashfern, expressed very clear concerns about the fact that a parent with care faces a collection charge, despite the fact that she is able to access the scheme only if it has already been established—and not by her—that the non-resident parent is unlikely to pay. The Minister mentioned behavioural incentives. Can he explain what the behavioural incentive is for the parent with care in those circumstances? If she is able to access the scheme only when it has become clear that the non-resident parent will not pay, what should she do differently?

The noble Lord, Lord Kirkwood, has raised the question of appeals so I do not need to revisit that, but I will listen with interest to the Minister's response. I have a couple of other small points. One concerns domestic violence. I very much welcome the decision not to charge application fees in cases of domestic violence. The Minister will be aware that even where domestic violence has been alleged or indeed admitted, the non-resident parent can still use the direct payment option. He will also be aware that voluntary organisations, including Gingerbread, are concerned about what impact that might have on the safety and security of the parent with care in those circumstances.

In the impact assessment, the Government have recognised the need for some sort of money transfer option, which would enable the parent with care to prevent any contact information being shared; for example, normal bank sort codes will reveal geographical information about where she is located, and she may have gone to another part of the country to protect herself and her children from a violent former partner. I believe that the Government are looking at trying to find some kind of bank account which would have non-geographical data attached to it. Can the Minister update the Committee on that? Can he also assure us that, unless and until a parent with care is able to have that kind of safe mechanism, she will not be expected to accept payment directly from the non-resident parent, with the consequences that that brings.

In a letter to the noble Lord, Lord Goodlad, dated 17 September, the honourable Steve Webb, Minister in another place, said:

> "We also plan to run a media campaign from early 2014 to make CSA clients aware of the changes".

Can the Minister update the Committee on that?

Finally, a number of noble Lords have mentioned the 30-month review, which was the concession that the Government made when the Welfare Reform Act was passing through this House. I assume—the Minister may correct me—that that review is likely to be too soon to take advantage of the data coming out of the longitudinal study to which the Government have committed. Given that, can the Minister give the Committee some assurance about what the review will be like? What format will it take? Will it commission proper research evidence? What kind of evidence will it expect to gather for that?

We are left with a good many questions here. I hope that the Minister can answer them all today—if he cannot, perhaps he will write to us. If he finds that he is unable to answer them, I wonder whether he might think again. In particular, I very much hope to hear the Government tell me that I have missed, which I may well have done, the fact that they have set themselves an overriding objective to increase the flow of maintenance to children as their principal policy aim. If they do that, a number of the other questions may come out in the wash.

Lord Freud: I thank noble Lords for a set of very interesting contributions to this debate. It is clear that a lot of thought has gone into this area and it has provided a very constructive approach, not just today but over a considerable time. I therefore need to respond to as many of those issues as I can.

As I said initially, and as the statement read out by my noble and learned friend Lord Mackay confirmed, we have consulted on these two sets of regulations and taken views into account. We have changed our initial proposals on fees and on the sequence in which cases will close.

I want to reflect initially on the contributions that my noble and learned friend Lord Mackay has made to the development of these policies. He has made a

[Lord Freud]
series of suggestions, both publicly and privately to us, aimed at improving the scheme and helping children. We have listened very carefully to his representations and taken action to reduce the strain on the parent with care. Although my noble and learned friend has made clear his view that the balance is still tilted towards the taxpayer at the expense of the parent with care, I hope that there is agreement that this is a question of striking the right balance and that it is appropriate that we do that by considering actual behaviour.

First, as a result of the consultation, we have amended our proposals for case closure by putting back those cases where parents within the statutory service have most to lose. We have put to the end of the case closure process those cases where money is flowing, which often follows hard-fought compliance, and the flow is maintained only by enforced collections. We have done this to ensure that money keeps flowing and compliance continues. These cases are most likely to fall into the category that my noble and learned friend is most concerned about, where parents with care find themselves unable to establish workable direct payment arrangements regardless of their willingness to do so.

Secondly, the 30-month review allows us to consider actual behaviour, to check that the impact of the reforms is as expected and to provide an indication of whether there are any unintended consequences for clients or the taxpayer. We intend to evaluate the overall impact of the child maintenance reforms in wider society, including the impact on overall maintenance outcomes. Our approach to the review is to use existing survey and administrative data sources where possible, combining these with internally and externally commissioned quantitative and qualitative research where necessary.

Our aim is that the child maintenance system in Great Britain should work better. We are going to focus on the impact on children of these changes. A key criterion for success of our reforms, which will be tested in the 30-month review, would be to increase the number of children benefiting from maintenance. Our estimates suggest that this number should rise, and we look forward to having this confirmed by the review—a point that the noble Baroness, Lady Sherlock, was particularly interested in. If there are fewer children receiving child maintenance as a result of our charging regime, this will be made clear by the 30-month review and we could consider what changes might be required. By that time, we will know how people will behave and refinements to the system, along the lines that my noble and learned friend Lord Mackay has recommended to us in the past—in other words, segmenting the caseload into "can make direct pay arrangements" and "cannot make direct pay arrangements"—can be considered on a more informed basis. To introduce this complexity at this stage would add delay to bringing the benefits of the new system to parents and further complicate the Child Maintenance Service's processes.

Pressing ahead with the reforms will mean that more children will be better off, as our estimates suggest that there will be an increase in the proportion of positive outcomes for clients on the statutory scheme. This is due to more availability of data and more updating of maintenance liabilities, together with a significant increase in the number of effective family-based arrangements. In the statutory scheme, the effect of the annual review coupled with direct interfaces with Jobcentre Plus and HMRC should mean that in future fewer cases are nil-assessed, meaning that more money could flow. We estimate that the percentage of nil-assessed cases will fall from the current 23% to around 6% of all arrangements in the longer term; I hope that this answers the questions asked by the noble Baroness, Lady Sherlock.

Over the 20-year period considered in the impact assessment published in 2013, including case closure, charging and the overall reform package, the assessment consistently gives a higher proportion of effective arrangements for parents who would have used or will use the statutory scheme than if the 2012 scheme was introduced on its own. As noble Lords have pointed out, we estimate that these reforms are likely to increase the proportion of effective arrangements from 60% to 70%.

There were a large number of questions, and I will try to go through as many as I possibly can. The noble Baroness, Lady Howe, asked how we will know if the arrangements are working for parents. We will be using data from the *Understanding Society* longitudinal study to assess progress on family-based arrangements across the whole population. She and the noble Baroness, Lady Sherlock, also mentioned the Secondary Legislation Scrutiny Committee. This was responded to by the Minister for Pensions subsequently and that response has now been published.

5.15 pm

One of the many questions of my noble friend Lord Kirkwood was why the non-resident collection fee was higher than the parent with care collection fee. That is to provide a greater incentive for the non-resident parent to collaborate and to pay directly, outside the collection service.

How will we decide who is unlikely to pay? We believe that in general it is fair to allow non-resident parents the opportunity to pay by the direct pay option. However, we are conscious that they should not be given the opportunity to avoid their responsibilities. Where there is a disagreement between the two parents, the Secretary of State must decide whether the non-resident parent is unlikely to pay. There will be a set of predetermined criteria as a starting point.

My noble friend talked about the experience of charging in the 1990s. The difference is that parents will now have the option of avoiding the charges in most cases. Where charges are levied they are designed to be a fair contribution to a system that remains highly subsidised. We have already tested the basic system. We will not charge until we know it is working well. Sadly, those precautions were not necessarily taken in 1993.

With regard to the right to appeal where the waiver is refused, applicants can make an internal complaint, a complaint to the independent case examiner, a complaint—in cases of maladministration—to the Parliamentary Ombudsman, or they can appeal to the court for judicial review.

Who will explain to the parent with care? We will do that, and the rationale for the decision will be recorded and explained to both parents at the time of the decision. If the parent with care does not agree, they can complain to the bodies I have referred to. Will the charging regime drive people apart? Our operational experience is that the older cases—the ones that my noble friend cited—are more compliant than new cases. These older cases often find it easier to work together; perhaps some of the immediate passions have died down. Will charging support collaboration and what is the evidence for that? Our research shows that over half of parents could come to a private arrangement if given support, and the fees regulations provide a nudge towards this step.

My noble friend asked about the postponement of case closure until we are confident of an effective support infrastructure. The sector already provides support for separated parents, and this support will be crucial in helping separated parents through case closure. A programme of work has been running since before the introduction of the Child Maintenance Service, to provide the sector with training and information materials to enable these organisations to provide effective support to separated parents.

On the question from my noble friend and the noble Baroness, Lady Sherlock, on what proportion of current child maintenance cases are being paid, that will become available in April 2014 when we have some management information. On the question from my noble friend about what drives us—revenue versus helping parents—I repeat that the aim of this reform is to help children. The whole point of having the full review is so that Parliament can test if we have achieved this.

The noble Baroness, Lady Sherlock, asked a question on the 60% to 70% rise. We estimate that around 50,000 cases could move from being nil-assessed to being positively assessed should a new application be made to the Child Maintenance Service. The calculations made under the scheme are based on the non-resident parent's gross taxable annual income, which we can source from HMRC directly, and we can review annually. Those are the two main reasons why we believe that those outcomes will increase in the way we are anticipating.

The noble Baroness, Lady Sherlock, asked a question on what we mean by "working well". We mean that the system is stable and there are no major periods of unplanned outage or long periods with long response times; and operations colleagues are happy that the system is working as intended, with full application volumes so that they are able to progress work to the planned timeframe—so it is a practical, working system.

On the noble Baroness's question on information, clearly one of the differences is that there is direct access to HMRC, which does not happen in the older systems. Therefore it is not a question of getting more up to date; the information will be up to date, or up to each year. That issue of being up to date is therefore dealt with. Where there is less than full declaration to HMRC—in other words, misinformation going both to HMRC and to the other parent—that is, of course, tax fraud, which is obviously much more difficult to deal with.

There will be an option within direct pay for the parent with care to receive payments direct from the non-resident parent without having to reveal their location or other contact details. We are confident that provisions will be in place to ensure that every client is able to use that safely and securely. I think that I have dealt with all the questions.

Baroness Sherlock: I thank the Minister for going through all those questions—I am very grateful. I still have a couple which perhaps he missed out.

The Minister has explained to us that the Government believe that there will be more children in receipt of maintenance and more effective arrangements. However, he did not pick up on the amount of money that will change hands. For example, it would be perfectly possible for someone who was currently getting the full statutory amount through the statutory system to have in future a family-based arrangement in which they agree to take half of that amount to keep each other happy. Will the Government also be monitoring, and set a target for, the amount of child maintenance that is changing hands, and will they monitor in particular whether the amounts for individual families go down? In other words, one could see a change in the mean—by, for example, people who are currently nil-assessed joining the system—but that might disguise a fall in other cases. How well would that be monitored?

I think that I asked a question about the media campaign that Steve Webb had promised in early 2014. Does the Minister have any information on that?

There is a piece of nuance for which I apologise from this side as a pedant. On the question of domestic violence, the Minister said that he is confident that a non-geographic option will be available. Could he reassure the Committee that where domestic violence is alleged or admitted, a parent of care will not be required to accept direct pay unless and until such a scheme is available to them?

Lastly, I want to be sure that I understood his question about enforcement and HMRC. I think that he is saying that it will become more difficult for a parent with care to raise the question of where they believe earnings have been underdeclared. HMRC may deal with the general question of whether enough tax has been paid but at the moment, as I understand it, and I would be grateful if he would tell me whether or not I am right, a parent with care can go to the CSA with evidence showing that the non-resident parent has higher income than has been declared to the CSA—for example, if the lifestyle in terms of a house, a car or money spent would not appear to tally with the relatively small amount of income declared—and it can investigate and address that. Is he saying that that will not happen unless HMRC decides in general terms to conduct a tax investigation?

Lord Freud: On the question of the amount of maintenance, our estimate at this stage is that more children will get maintenance. That is what I have said. How much that maintenance is in money terms is less clear at this stage. It is one of the things that we will find out. I need to remind noble Lords that assistance may take many forms to children—more shared care—so

[LORD FREUD]
the question is not just about money. It is about the level of support. That is an area that we will be looking at closely.

On bank accounts, parent care will be able to dictate to which account the non-resident parent must pay. If that fails to happen, it will result in a return to the collection service, which I think in practice deals with the noble Baroness's question.

At the moment, the CSA gets a complaint from the parent with care. The place where it goes to check is HMRC. That main checking area becomes irrelevant when there is a direct feed. Where she is suspicious—it is a suspicion—of, effectively, tax fraud, that is what we are talking about.

Baroness Sherlock: So the CSA does no investigating of its own? I am sorry; I must have misunderstood that point.

Lord Freud: No. Currently the CSA checks with HMRC. As now, it will be able to provide information to support its suspicions that all might not be well. This is a difficult issue more generally.

On the question about the campaign, we are planning a media campaign using social media and paid-for channels such as radio. We are still finalising those details. The intention is to raise awareness of case closure and to promote parental responsibility. We will get more details of that out in coming months.

With all the issues dealt with—perhaps not to everyone's absolute satisfaction—I will commit to continuing to provide transparency in the delivery of this programme of reforms. We published a strategy for the publication of information about the 2012 scheme on 18 July last year. We plan to release official statistics once we are assured of the appropriate quality of the data; we expect this to be after April 2014, as I said. Ahead of this, we have used the management information that is available to release limited relevant data on a one-off experimental basis, published on 25 November last year. As I mentioned earlier, we will review the effects of the fees and regulations, and lay a report before Parliament following 30 months of operation. I commend the regulations to the Grand Committee.

Motion agreed.

Child Support (Ending Liability in Existing Cases and Transition to New Calculation Rules) Regulations 2014

Motion to Consider

5.30 pm

Moved by ***Lord Freud***

That the Grand Committee do consider the Child Support (Ending Liability in Existing Cases and Transition to New Calculation Rules) Regulations 2014.

Relevant documents: 16th Report from the Joint Committee on Statutory Instruments, 23rd and 27th Reports from the Secondary Legislation Scrutiny Committee

Motion agreed.

Consumer Credit Act 1974 (Green Deal) (Amendment) Order 2014

Motion to Consider

5.31 pm

Moved by ***Baroness Verma***

That the Grand Committee do consider the Consumer Credit Act 1974 (Green Deal) (Amendment) Order 2014.

Relevant document: 18th Report from the Joint Committee on Statutory Instruments

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Baroness Verma) (Con): My Lords, over the past year the Green Deal has been steadily growing in momentum. Around 130,000 Green Deal assessments have taken place. Nearly 500,000 energy-efficiency measures have been installed through ECO, cashback and the Green Deal. One company alone says that it has installed Green Deal measures in nearly 10,000 homes so far.

The financing mechanism, allowing customers to pay through their electricity bills, is only one way of paying for the Green Deal. We now have more than 1,600 Green Deal plans in the system. The Green Deal Finance Company is handling around 130 new plan applications a week, totalling nearly £6 million in funds offered. Forty Green Deal Providers are now able to offer Green Deal finance, and 19 of these are actively writing plans for consumers.

One area where we believe the Green Deal could be particularly effective is the rented sector. Action to improve the energy efficiency of private rented properties is, as we know, badly needed. This sector has a disproportionate number of fuel-poor households—21% overall—and a high number of F-rated and G-rated properties: 13% of the stock, almost twice the national average of 8%. To date, energy-efficiency investment in the rented sector has been constrained by split incentives. The landlord pays for the energy-efficiency measures but the tenant benefits. The Green Deal pay-as-you-save model helps to address this split incentive.

The electricity bill payer, who is normally the tenant, meets the cost of the measures through savings on their overall energy bill. The Green Deal repayments will appear on the tenant's electricity bill and will be collected by their electricity supplier in exactly the same way as their charges for electricity consumption. However, the cost of these repayments should be matched by the savings in overall energy costs that a tenant is likely to benefit from as a result of the Green Deal energy-efficiency measures. A tenant will pay for the Green Deal instalments only while they occupy the property and are therefore benefiting from the measures. The result is that the tenant will live in a warmer, more

comfortable home. When the tenant leaves, the responsibility for making the Green Deal repayments passes on to the new tenant, or to the landlord if there is a void period.

The only situation in which a tenant will have any liability to pay anything in relation to the Green Deal after they have left the property is if they have built up arrears, which include Green Deal instalments, on their electricity bill. When they move out, their electricity supplier will send them a final bill. If there are arrears on the bill for electricity consumption and Green Deal instalments, the supplier will seek the tenant to pay. This is exactly the same process as exists now for tenants.

When a Green Deal plan is first set up, the existing tenant will receive detailed information about the plan and must give their written consent. The Energy Act 2011 provides that they have 14 days in which they can withdraw their consent if they change their mind. The new tenant moving into the property will be made aware of the Green Deal through specific disclosure requirements. For example, the energy performance certificate, or EPC, which is already a legal requirement in the rented sector, will show the presence of a Green Deal plan at the property, the energy savings that will arise and the level of the repayments. A new tenant will therefore have all the information that they need before they decide to rent the property. They also have the right to request a full copy of the Green Deal plan from the landlord or the Green Deal provider.

We expect to see real demand for the Green Deal in the private rented sector, both from tenants who want to live in more energy-efficient and comfortable homes and from landlords who wish to improve their properties. This provides a real win-win. We expect this to increase as a result of the minimum energy efficiency standards that we are developing for landlords. The Green Deal provides a mechanism that did not exist previously for tenants to work with landlords to improve the energy efficiency of their homes. We want to make sure that tenants do not live in cold, damp and draughty houses for which they end up paying too much on their energy bills.

Among the reasons cited by landlords for their caution towards Green Deal finance was that they needed greater clarity about how consumer credit legislation worked with the Green Deal to have confidence to lend at scale. The amendment to the Consumer Credit Act, provided by the order we are debating today, will give that confidence. We have thoroughly reviewed the consumer credit legislation to ensure that it will work effectively with the Green Deal. Although this analysis has taken long than expected, the amendment will now allow the same Green Deal plan to be offered to all customers, irrespective of what type of property they live in.

I turn to the details of the order. The credit arrangement introduced by the Green Deal, otherwise known as a Green Deal plan, is a new form of unsecured credit. In owner-occupied properties the customer arranging the energy efficiency improvements will generally pay the repayments as they are paying the electricity bill. However, as I have mentioned previously, in the rented sector the landlord is likely to arrange for the improvements while the tenant makes the repayments. This has given rise to some uncertainty. When is a Green Deal plan regulated by the Consumer Credit Act, and who is entitled to the protection of the Consumer Credit Act for a Green Deal plan? Is it the tenant or the landlord?

To help to address these uncertainties, the order that we are debating today makes specific amendments to the Consumer Credit Act. The order does not change existing Green Deal policy or its legal framework. The amendments will, however, give Green Deal providers greater clarity and confidence when issuing Green Deal plans. In turn, that will encourage more people to take up the Green Deal.

In particular, these amendments resolve two key issues. First, to address concerns relating to the difficulty in determining whether or not a particular Green Deal plan is regulated, we have now provided that almost all domestic Green Deal plans will be regulated by the Consumer Credit Act, regardless of those who are making the improvements. Tenants moving into a domestic property can be reassured that they will receive the protections afforded by the Consumer Credit Act. Non-domestic Green Deal plans will be regulated only if the person arranging the improvements is an individual, not a business. This approach will greatly simplify the process for Green Deal providers and ensure that in all appropriate cases Green Deal plans are regulated under the Act—including, for example, where a Green Deal plan is set up by a corporate landlord during a void period.

Secondly, while our key policy concern has always been to ensure that consumer tenants receive all appropriate protections under the Consumer Credit Act, we received feedback that the landlord, or the person making the improvements, should be entitled to certain rights and protections, so we carefully analysed this Act to determine which protections would be relevant to them. Following this analysis and discussions with a wide range of stakeholders, our amendment provides that both the bill payer and the person making the improvements are given the protections of a debtor, but each for specified sections of the Act. This ensures that tenants and landlords receive the specific rights and protections that are relevant to their roles under a Green Deal plan.

To make it clear for Green Deal providers which sections of the Consumer Credit Act will apply to a particular person, our amendment sets out whether a reference to the debtor in the Act is to be read as a reference to the bill payer at the time when the plan is made, the current bill payer, any previous bill payers who have arrears outstanding or the person making the improvements. Our approach is that the bill payer, who has liability to pay instalments under a Green Deal plan, will receive all material and appropriate consumer protections. There will be no reduction in the level of customer protection that a tenant can expect. However, the person making the improvements, for as long as they are an owner or occupier of the property, will also receive a number of protections.

Our amendments will not alter the principles, provided for in the Energy Act 2011, that whoever is the bill payer at a given time is liable for making repayments

[Baroness Verma]
under the Green Deal plan. As mentioned previously, a new bill payer automatically becomes liable for instalments from the time when they assume responsibility for the electricity bill—for example, when a new tenant moves into the property. Landlords will become liable for Green Deal instalments if they become the bill payer—for example, during a void period.

As the Committee may be aware, the regulatory regime for consumer credit is changing on 1 April. After that date, lenders will need to be authorised by the Financial Conduct Authority rather than the Office of Fair Trading. In the next couple of months, we therefore also intend to introduce some small amendments to the FCA's legislation to reflect the approach set out in this order.

In conclusion, I firmly believe that the amendments to the Consumer Credit Act brought about by this order will ensure that consumers and tenants who pay money under a Green Deal plan receive all the appropriate protections. It will give the clarity that Green Deal providers are seeking and give them the confidence to offer plans to consumers across all property sectors. This will allow them to access the untapped demand and to press ahead with rolling out the Green Deal across the country at scale, delivering warmer homes for us all. I commend the order to the Committee.

5.45 pm

Lord Teverson (LD): My Lords, I thank the Minister for that excellent explanation of this rather technical document. I have to disappoint the Committee by saying that my comments will not be immensely profound today, except to say that I welcome the statutory instrument because it helps to clarify to a number of the parties involved in the Green Deal exactly what happens and when. That has to be a good thing, and I thank the Minister for updating us.

Although a number of us have been slightly frustrated at the rollout of the finance, what the Minister said about the stimulus that the Green Deal has given to a number of people to really investigate getting better insulation for their homes was very important. It is obviously one of the big challenges for our nation in terms of meeting carbon targets, let alone in terms of addressing fuel poverty, that we increase the thermal efficiency of our housing stock, and the programme is at least doing that.

One thing struck me as the Minister was speaking, but I am sure that the answer that it is no problem at all. With the increased amount of switching that is now going on—much as the Government have encouraged and been quite successful in stimulating—I presume that there is still no difficulty in terms of where the liability goes, arises or follows through after a number of switches of accounts by tenants when they come in, because I hope that that will be an increasing feature of the market in terms of competition.

Baroness Worthington (Lab): I thank the Minister for introducing this debate and for speaking to this statutory instrument. I also thank the noble Lord, Lord Teverson, for his comments and his quite pertinent question about switching; I had not thought of that and would be interested to hear the response.

If the Committee will bear with me, I want to make a few general comments about the Green Deal and then some specific comments about the statutory instrument. I agree that if the impetus behind the instrument is to create clarity about the protections that exist for tenants and owners under consumer protection legislation, it must be a good thing and we support it.

It is interesting to see how the Green Deal more generally is playing out. We have seen 130,000 assessments undertaken but, from those, fewer than 700 financial deals being taken out. The Minister in the other place has been keen to point out that what we want is measures undertaken, and that is a good thing, but the low take-up of the financial aspects points towards something about the scheme that may need to be reviewed. It is clear that it is not as popular as we might have hoped. We look forward to further announcements from the Government on how they are going to change that. A very low take-up of the financial package creates a very small pool of people carrying a liability with them that never becomes normalised or well understood in the wider populace. It can disadvantage those early adopters if it does not ever take off. They will carry liabilities on their properties that few people understand and may instinctively dislike. So the take-up of the financial package is important. It is good that measures are being taken on personal finance and other financial mechanisms, but the Government cannot simply point to the assessments and say, "Oh, it's all fine". The financing was always a key part of this and we have to assess why it is not being taken up with more vigour and enthusiasm.

The other question that arises is around monitoring. The assessment of the Minister in the other place was that 80% of people who undertake an assessment go on to fit measures. That sounds great, but I am afraid that I do not know how that number was calculated or where those numbers are recorded. Perhaps we could hear more about that number. If the numbers are to be a mechanism, but outside the financing mechanism, that tips or nudges other people into action, we perhaps need to think again about how we record and monitor what is actually happening. The figure should be not a guesstimate but a hard number that we can publish and have confidence in. Perhaps it is simply a matter of requiring the companies that undertake the measures to report to an agency. Perhaps the Landmark Group, which currently monitors the EPC, could be that group; it could keep a record. I would be interested in the Minister's comments on that.

I turn to the rented sector, which is the focus of this new clarification. This is an important issue. The Minister has stated, and it is clear, that a disproportionately large number of people live in fuel poverty in this sector, and the housing stock, with 13% of properties rated F or G, is not being invested in. A lot of people in the private rented sector are living in cold, damp homes. We must address this.

I take the point about the split incentives: it is very difficult to get this right. If it is left on the landlord, they do not feel the benefit of the reduced bills. If the bill payer carries the entire burden, they do not get the same benefit as the landlord whose property has been

improved and made more attractive. The Government might say, "Well, that's the way the balance has to tip and we've now tipped it back in favour of the tenant", which is probably a good thing, but it raises a few questions. One is that, while landlords will presumably get some protection under the Consumer Protection Act, what will happen to a property where the tenant leaves but it is then left vacant for a lengthy period? Is it simply that the financial deal is suspended? What happens during that period? There could be properties that are vacant for quite a long time. What then happens to the creditor who is expecting payments that are not being made? Is the time frame extended? What happens in those cases?

There may also be landlords—this will probably not happen frequently—who decide to stop renting and to sell their property for development or demolition. What happens in those circumstances? If it is sold on as a house or as a dwelling that can be lived in, I can understand that it would pass, but if it is demolished, who then makes good the debt owed to the energy finance company?

There are questions around the rented sector that need to be looked at. The Minister mentioned an existing legal requirement to produce an energy performance certificate if a property changes hands between tenants. This is, I believe, poorly enforced. In the publication *Energy in Buildings & Industry* of November-December 2013, it was revealed that DCLG is currently forced to pay compensation to Landmark, the body that collects the certificates and does the administration, to the tune of £6 million because too few people are complying with this legally binding requirement from the European Union. This seems crazy: taxpayers' money is being spent to make good a contract signed with a private company because of a failure to enforce a legally binding requirement. That needs to be sorted out. If the uptake of energy efficiency in the rented sector is insufficient, we should look first at why we are not enforcing the use of legally required energy performance certificates. The statement that new tenants will have all the information necessary to decide whether they want to move into a property sounds slightly hollow when the evidence is that the uptake of the legally binding EPCs is not present. The bedrock of enforcement seems not to be in place. Could the Minister come back to me on what we are doing to enforce EPCs in the rented sector?

My final point is that it is good that this statutory instrument is addressing the issue of uncertainty and consumer protection. That is one uncertainty too many, and it is good that it is being resolved with this change in the law. However, this policy continues to be affected by a range of uncertainties. We know that the poor take-up of the financing package is going to lead to changes. We expect it to be continually updated and changed as we find out more about how people are taking it up. That is good if it finally leads to a successful scheme. However, it has been mentioned that the golden rule may change.

If the golden rule changes, and the payback necessary to comply with the golden rule changes, you may edge into the situation where a tenant takes on a lot of debt, knowing they are going to be moving on quite soon, and the incoming tenants are then facing something quite unattractive. In those situations, I suspect that landlords are left with potentially unrentable properties. That is something that no one wants to see. It could act as a disincentive for landlords to embrace this scheme, if they fear that there will be a low take-up, high risk and the potential for their properties to be priced out of the market through measures that do not comply with the golden rule. As this policy is being modified, we need to think carefully about the detailed implications. On that point, however, we support this clarification.

Baroness Verma: My Lords, I thank my noble friend for his warm and supportive welcome for the order. He asked a question on switching to which I will refer in a moment. I also thank the noble Baroness, Lady Worthington, for her comments and her general support of the order. She has raised a number of questions. I will try to answer as many of them as I can. Those that I fail to answer I will get into writing and see that the noble Baroness and my noble friend are copied into those responses.

Coming back to the noble Baroness's opening comments about the take-up of the Green Deal, we tend to assume that everything has to be done through a particular type of finance scheme. We have found that the Green Deal finance is only one payment option for getting Green Deal measures in place. We have found that self-finance—people going out, taking on measures and paying for them themselves—has been a much more popular way of getting these measures in place. The noble Baroness mentioned the numbers. We know that 500,000 measures have already been put into around 400,000 homes, whether through ECO, self-finance or Green Deal finance. To reduce the issue to being seen only through the success of Green Deal finance distorts the real picture of the Green Deal, which is that it is a long-term programme to ensure that we get real energy-efficiency measures put into homes. Those measures may be financed in a variety of ways.

I say to the noble Baroness that we need to take heart. Feedback has come back from one company that has managed to install Green Deal measures into 10,000 homes. The picture is not always as clear cut as measuring it only against Green Deal financing, which slightly distorts the programme's actual success. Yes, it is slow, but it is a slow-but-steady-progress programme; we would expect that, because it is a long-term programme.

My noble friend Lord Teverson asked whether switching would have an impact on the rights of the customer. The customer is able to switch suppliers exactly as he or she can currently do. What they cannot do it switch to smaller suppliers that do not service the Green Deal programme. That is obviously something of which consumers will be made aware.

The noble Baroness, Lady Worthington, asked what would happen when a property was demolished or ceased to exist. The owners would still be liable to pay because the Green Deal would still be in place. She also asked about the regulations for the private rented sector. We plan to consult shortly on new regulations to require landlords to improve their homes from 2018. From 2016, landlords should not really be able

[Baroness Verma]
to refuse measures if the regulations make them put the measures in. We ultimately want housing stock with energy-efficiency measures, to reduce energy usage and ensure that tenants in those buildings do not end up paying over the odds for energy use.

6 pm

The noble Baroness asked about the EPC regime and whether it was poorly enforced. We are working very closely with the DCLG to improve EPC compliance. We have our own contract with it for Green Deal assessment. Those discussions are ongoing to ensure that incoming tenants are able to access as full a picture as possible of the property that they are about to rent with all the measures that are in place there.

The noble Baroness asked about how we get the feedback about people taking up measures. Social research is being delivered through a well respected independent research company that has actually taken evidence three ways. It has interviewed more than 1,500 people. Those responses will be published on the DECC website so will be there for public viewing.

Overall, it is useful that we have had this amendment put in place. It is helpful that the Committee sees it as a supportive and good amendment to have in place to protect both the tenant and the landlord. It is gaining momentum. It has the potential to help customers to install energy measures across the country. However, my department continues to review the Green Deal. That is right and correct. We will make changes where we can make improvements. It is right that we have constructive debates towards that. I have always said to the noble Baroness, Lady Worthington, and my noble friend that it is right that we are able to have these exchanges so that we can make the process easier and better for consumers. Ultimately, we all share the same goals. We want energy-efficient buildings.

Baroness Worthington: I thank the Minister for her response. Just before she sits down, I want to reiterate the point about the measurement of these measures. There is a danger here that we are seeking slightly to rewrite history. When the Green Deal was launched, it clearly was all about the finance package, and that was meant to be what was going to unlock it. My concern is that if we move the goalposts and now say, "Well, it was always about assessments; that's the main thing", or, "Self-financing is the important thing", that creates a problem where early adopters are taking on a mechanism which, if it does not become well understood or commonplace, will mean that we see people not wanting those properties. That disadvantages people who implement the measures because the understanding of the package and the liabilities—this weird thing that never becomes mainstream—stays niche. That is the issue.

On the EPC, I am encouraged to hear that the Minister's department is working with the DCLG. This is an important issue; after all, it is a legal requirement, so it is very basic. Before we make new requirements, could we perhaps look at thinking about more public information for tenants? That could include advertising, making sure that tenants are aware of their rights to request a new certificate, and maybe adverts that are being placed should carry EPC certificates, as they often do now when you buy a house. Perhaps tenants need the same. I am encouraged by that and I look forward to hearing more about it.

Baroness Verma: My Lords, I am extremely grateful for those comments. I go back to my point that, while it is important that Green Deal finance is an important part of the programme, we do not seek to make that the only method by which people can access measures. Overall, we have seen that people who want to go out and get these measures done are actually doing it through their own self-financing. The Green Deal finance is available, but if they choose to find an alternative way, it is their right to do so. The suppliers make it very clear, through their installers, what measures will work and how they will be reported. We are also working with the Council of Mortgage Lenders to ensure that we educate them on the Green Deal as well, to prevent it becoming a barrier to people wanting to access mortgages.

I am extremely grateful to the noble Baroness and my noble friend. I commend this amendment.

Motion agreed.

Committee adjourned at 6.05 pm.

Written Statements

Tuesday 4 February 2014

Advisory Group on Military Medicine: Triennial Review

Statement

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): My hon. Friend the Minister for Defence Personnel, Welfare and Veterans (Anna Soubry) has made the following Written Ministerial Statement.

On 5 December 2012 (Official Report, column 57-58WS) my predecessor the right hon. Member for Rayleigh and Wickford (Mark Francois) announced in Parliament through a written ministerial statement, the commencement of the triennial review of the Advisory Group on Military Medicine (AGoMM). I am now pleased to announce the completion of the review.

AGoMM plays an important role providing independent, specialist advice to Ministers and senior officials on the policy for medical issues within medical force protection, and for clinical treatments used on military operations.

The review concludes that the functions performed by AGoMM are still required; however it should be delivered as a Public Sector Working Group rather than the current model of an advisory non-departmental public body (NDPB). The review also looked at the governance arrangements for the body in line with guidance on good corporate governance set out by the Cabinet Office. The report makes a couple recommendations in this respect, mainly around the publication of unclassified information about the work of AGoMM and its membership; these recommendations will be implemented shortly.

The full report of the review of AGoMM can be found on the gov.uk website and copies have been placed in the Library of the House.

Azerbaijan

Statement

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach) (Con): My hon Friend the Minister for Immigration (Mark Harper) has today made the following Written Ministerial Statement:

The Government has decided not to opt in at this stage to the draft Council Decisions concerning the signature and conclusion of the Agreement between the European Union and the Republic of Azerbaijan on the readmission of persons residing without authorisation (European Union Document Nos. 15493/13, COM (2013) 745; 15494/13, COM (2013) 744).

There is little illegal migration from Azerbaijan to the UK and we have no operational problems with returns which an EURA would help to resolve. It would be possible for the UK to seek to participate in the Agreement post-adoption if these circumstances were to change.

Flooding

Statement

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Stowell of Beeston) (Con): My Honourable Friend the Parliamentary Under Secretary of State for Communities and Local Government (Brandon Lewis) has made the following Written Ministerial Statement

I wish to provide a further update for the House on the Department for Communities and Local Government's work on flood recovery including the £7 million Severe Weather Recovery Scheme that I announced in my statement of 17 January.

The Severe Weather Recovery Scheme will support and speed recovery in affected areas by helping to bridge the gaps between costs covered by the Bellwin Scheme, insurance and existing central and local government obligations and programmes - including the £3.4 billion the Department for Transport is already providing to English local authorities (outside London) for highways maintenance from 2011 to 2015. It is jointly funded by my Department and the Department for Transport.

Today, the full details of the Severe Weather Recovery Scheme have been published on the GOV.UK website and the Scheme is now open for local authorities to make an application. The deadline for submitting claims to this Scheme is 19 February 2014.

I would like to provide the House with some further details of the Scheme. We want to be able to give local authorities the flexibility to use the money as they see fit, so the funding will be distributed through a grant paid under section 31 of the Local Government Act 2003.

The Department for Communities and Local Government element of the Scheme will provide additional support to local authorities where they have incurred, or will incur, costs on supporting their communities during the recovery phase following the East Coast tidal surge and the more recent severe weather. Qualifying activities may include one or more of the following: offering council tax discounts; providing assistance for long-term displaced households; placing households in temporary accommodation; support payments to flood affected households; the purchase or provision of new household items for those affected; provision of temporary caravans; use of rest centres; and tourism impacts.

The Department for Transport element is a capital grant scheme and the funding will be distributed by formula to those local highway authorities who can clearly demonstrate that they have suffered damage to their local highway assets.

Full details of the Scheme can be found at:https://www.gov.uk/government/publications/severe-weather-recovery-scheme

We are considering the response and recovery support needs for the Somerset local authorities separately.

Furthermore, I would like to inform the House that I am chairing a series of roundtable discussions with local authority leaders from impacted authorities. To date I have met with leaders from East Anglia, Kent, Yorkshire, authorities in the south of England and the Thames Valley and over the next few weeks I intend to meet with leaders from the north of England, the West Country and Somerset. I will also be meeting with members of the voluntary community sector to understand the contribution they make to a multi-agency response in these circumstances.

My Department will make further announcements in due course.

Local Authorities: Expenditure

Statement

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Stowell of Beeston) (Con): My right hon Friend the Secretary of State for Communities and Local Government (Eric Pickles) has made the following Written Ministerial Statement

Over the coming weeks, councils will be holding their annual budget meetings at which they will formally take decisions about their expenditure on local services and their council tax levels for the year ahead. These discussions will affect the lives and household budgets of all who live in the council's area.

Local people should be able to see how those they have elected to represent them have voted on these critical decisions. However, such decisions could be clearer.

A survey by Conservative Way Forward in August 2013, based on Freedom of Information Act requests to 340 councils, found that 78% of councils could not or would not say how councillors had voted on setting that year's council tax. Three-quarters of councils which chose not to freeze council tax had not recorded their votes.

The Local Audit and Accountability Act 2014 will lay the way for greater reporting of council meetings using digital and social media. To complement this, we believe that local accountability would be further enhanced by asking all councils to publish, as a matter of record, how each councillor votes on any budget decisions including council tax changes. Indeed, recorded votes are the norm for Parliamentarians.

Accordingly, we have written to every council leader making clear our expectation that this year all councils will adopt at their budget meeting the practice of recording in the minutes of the meeting how each member has voted on the budget and amendments to the budget.

To facilitate this, we laid before Parliament the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 which make provision requiring councils to amend their Standing Orders (it is open to councils to waive them before they can be permanently amended) so as to make mandatory the practice of recorded votes at budget meetings.

This small but practical reform increases council transparency and accountability over council tax, and highlights the work that councillors do in championing their communities and representing local electors.

It is the latest step in a series of measures the Coalition Government has taken to help address the cost of living for hard-working people. This Government has announced a further two years of council tax freeze funding, on top of the average 10 per cent cut in council tax in real terms that this Government has helped deliver since May 2010.

We will be also publishing shortly the final Local Government Finance Settlement and the council tax referendum threshold for 2014-15.

Pensions

Statement

The Commercial Secretary to the Treasury (Lord Deighton) (Con): My right honourable friend the Chief Secretary to the Treasury (Danny Alexander) has today made the following Written Ministerial Statement.

Legislation governing public service pensions requires them to be increased annually by the same percentage as additional pensions (State Earnings Related Pension and State Second Pension). Public service pensions will therefore be increased from 7 April 2014 by 2.7 per cent, in line with the annual increase in the Consumer Prices Index up to September 2013, except for those public service pensions which have been in payment for less than a year, which will receive a pro-rata increase.

Written Answers

Tuesday 4 February 2014

Afghanistan: Women

Question

Asked by ***Baroness Kinnock of Holyhead***

To ask Her Majesty's Government what assessment they have made of the safety and security of Afghan women, in particular of the effectiveness of the implementation of legislation on the elimination of violence against women in Afghanistan. [HL4989]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): Implementation of the Afghan Elimination of Violence Against Women (EVAW) law was specifically included in the Tokyo Mutual Accountability Framework (TMAF), agreed at the 2012 Tokyo Development Conference. The Joint Coordination Monitoring Board, attended by Afghan and international officials, as well as Presidential candidates, took place on 29 January and was an important milestone for both assessing progress against the TMAF, including the EVAW law, and identifying forward looking priorities for the next Afghan Government. A report on the implementation of the EVAW law is currently being prepared by the Government of Afghanistan. The UK will co-chair the Ministerial review against the TMAF, which will take place three to six months after the formation of the new government this year, and will have a key role in ensuring that commitments made are met.

The position of women in Afghan society has improved over the past 10 years but Afghanistan is still one of the worst countries in the world to be a woman, and the hard won gains made are fragile. The UN Mission to Afghanistan conducts an annual assessment of implementation of the EVAW law. Their report in December last year recognised some progress has been made in the reporting of incidents but that prosecutions and convictions remain low. In our work with Afghan ministries and institutions we continue to mainstream gender issues. We are increasing the awareness and accountability of Afghan police on the protection of women's rights so they are better protected during everyday life. We are also working to support women's inclusion in the security forces by providing training for female officer recruits at Afghanistan's National Officer Academy. In addition, the Department for International Department's (DFID) future support to the Ministry of Interior will focus more strongly on promoting the role of women in policing and on the capability of the police to increase awareness of, and enforce, the EVAW Law. DFID's new £3m programme to strengthen women's access to justice in up to six provinces will include training formal and community-based justice sector actors on the EVAW law.

Armed Forces: Medals

Question

Asked by ***Lord Ashcroft***

To ask Her Majesty's Government how many applications for the Bomber Command clasp remain outstanding. [HL5108]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): As at 31 January 2014 some 4,600 Bomber Command clasp applications are outstanding, the majority of which are from Next of Kin. All applications from Veterans and Widows are up to date.

Aviation: Air Passenger Duty

Questions

Asked by ***Lord Boateng***

To ask Her Majesty's Government what conclusions they have drawn from the Caribbean Council's analysis of the impact of current banding levels of Air Passenger Duty (APD) on tourism to the Caribbean; and whether they intend to bring forward proposals to Parliament to equalise APD banding levels with the United States of America. [HL4805]

To ask Her Majesty's Government what discussions have taken place between ministers and officials attending the last and preceding Commonwealth Finance Ministers' meeting on the impact of the current banding of Air Passenger Duty on the Commonwealth states of the Caribbean. [HL4806]

The Commercial Secretary to the Treasury (Lord Deighton) (Con): The Government welcomes engagement with the Caribbean Council on Air Passenger Duty (APD). The Chancellor keeps all taxes under review. The Government maintains a dialogue with its Commonwealth partners on a range of issues. The Commonwealth Secretariat publishes the communiqués of Finance Ministers meetings on its website. This can be found at http://secretariat. thecommonwealth.org.

Benefits

Question

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government whether they have any plans to review the fairness of awards of Employment and Support Allowance. [HL5016]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): We are committed to ensuring the Work Capability Assessment (WCA) assesses people fairly. This is why it is subject to continuous review and refinement. The WCA and supporting processes are constantly evolving and we are committed to making changes where necessary, as

evidenced by our independent reviews. This includes three statutory independent reviews by Professor Harrington (published November 2010, 2011 and 2012) and Dr Litchfield's review which was published December 2013. The Department will be responding to Dr Litchfield's recommendations in the first quarter of 2014. We will shortly be running the 5th review.

In addition an Evidence Based Review was established to examine the performance of the current WCA descriptors and alternative descriptors proposed by a group of disability representative organisations. The review focused on the validity and consistency of assessment results. The final findings were published at the end of 2013.

Since 2010 when we inherited Employment and Support Allowance (ESA), the Department has continually improved the WCA for claimants. For example with regards to those suffering from cancer: we have twice changed the provisions which determine eligibility for ESA for cancer sufferers, most recently in January 2013 following extensive work with Macmillan Cancer Support.

Benefits: Crisis Loan

Question

Asked by ***Lord Beecham***

To ask Her Majesty's Government how much was advanced nationally by way of Crisis Loans in the last year before the system was changed and the Social Fund was localised. [HL5010]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): The total expenditure on Crisis Loans in 2012/13 has been published in the Annual Report by the Secretary of State for Work and Pensions on the Social Fund 2012 to 2013 (Annex 1). This is available at the following link:

https://www.gov.uk/government/publications/annual-report-by-the-secretary-of-state-for-work-and-pensions-on-the-social-fund-2012-to-2013

Britons Living and Working Abroad

Questions

Asked by ***Lord Oakeshott of Seagrove Bay***

To ask Her Majesty's Government, further to the Written Answer by Baroness Warsi on 22 January (WA 120–1), what is their estimate of (1) the number of United Kingdom citizens living abroad in each European Union member state apart from Croatia, and (2) the number of United Kingdom citizens living abroad in each European Union member state apart from Croatia and claiming a United Kingdom state pension, in 2010 or any other year since 2000 for which figures are available. [HL4963]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): The most recent figures we have are taken from a 2010 report which was commissioned by the Foreign and Commonwealth Office's Consular Directorate. These figures are estimates of the number of United Kingdom citizens living abroad (including for part of a year). We also have 2010 figures for those living abroad and drawing a UK pension. We do not have a further breakdown of figures for those working abroad, or for those who have retired and are not drawing a UK pension.

- Total number of UK citizens living abroad in EU Member States in 2010 (estimate): 2,197,800
- Total number of UK citizens living abroad in EU Member States and claiming a UK state pension in 2010: 395,450.
- Numbers for each EU Member State, excluding Croatia:

EU Member State	*UK Citizens living in MS (estimate - including for part of the year)*	*Number of UK Citizens claiming a UK pension*
Austria	7,000	5,140
Belgium	31,000	4,620
Bulgaria	18,000	420
Cyprus	65,000	16,450
Czech Republic	7,000	290
Denmark	12,000	2,170
Estonia	700	40
Finland	4,000	820
France	330,000	50,000
Germany	107,000	35,630
Greece	45,000	4,720
Hungary	5,000	810
Ireland	329,000	113,710
Italy	37,000	36,480
Latvia	400	120
Lithuania	300	70
Luxembourg	8,000	330
Malta	11,000	4,650
Netherlands	48,000	9,090
Poland	6,000	1,400
Portugal	39,000	8,220
Romania	7,000	60
Slovakia	1,000	40
Slovenia	4,000	160
Spain	1,050,000	96,990
Sweden	29,000	3,020
TOTAL	2,197,800	395,450

Asked by ***Lord Oakeshott of Seagrove Bay***

To ask Her Majesty's Government, further to the Written Answer by Baroness Warsi on 22 January (WA 120–1), what methodology was used to arrive at the estimate of the total number of United Kingdom citizens living abroad in European Union member states and the total number claiming a United Kingdom state pension. [HL4964]

Baroness Warsi: The research commissioned by the Foreign and Commonwealth Office (FCO) was carried out within individual countries by researchers for the Institute for Public Policy Research (IPPR). The methodology as set out in detail in the report 'Global Brit' was based (in summary) on the following:

• Census or survey information made available officially by host governments. When necessary these were up-rated in line with rates of growth or decline.

• In countries with a high evidence of non-registration (e.g. France, Spain and Portugal) the census data was supplemented by official government estimates of the levels of non registration.

• All figures were further supplemented by: Growth in numbers of UK passports issued to residents of these countries and increases in the numbers of UK pensioners resident in these countries (information available from UK Government sources) and local Consular data in-country. Additional research was conducted with expatriate media in-country and Diaspora groups.

Child Maintenance

Question

Asked by ***Lord Kirkwood of Kirkhope***

To ask Her Majesty's Government what is the estimated fee revenue the Department for Work and Pensions expects to receive between 2014–15 and 2017–18 from parents whose Child Support Agency cases are closed during that period, and who then transfer to the Child Maintenance Service.

[HL5013]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): The Impact Assessment for case closure and the introduction of charging sets out the costs and benefits of introducing those specific measures on the Department for Work and Pensions (DWP), as well as on other government Departments and on third parties such as parents and employers.

The Impact assessment included an estimate of fee revenues over the period from 2014/15 to 2017/18 of £369m based on total 2012 scheme caseload which is a mixture of

New client applications,

Clients on an existing scheme whose case has been closed and who use the 2012 scheme.

Our estimated split of fee revenues between the aggregate flow of new clients and former CSA clients between 2014/15 and 2017/18 is 45% for the former and 55% for the latter. This would indicate that around £203m will result from former CSA clients choosing to apply to 2012 who are not able to maintain compliance directly between one parent and the other.

The impact assessment can be seen at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/259694/cm-case-closure-and-charges-regs-ia-final.pdf.

Figures are taken from annex 4a

Children: Social Care

Question

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government what steps they will take to improve children's social care in the United Kingdom. [HL5015]

The Parliamentary Under-Secretary of State for Schools (Lord Nash) (Con): The Government is taking a range of steps to improve children's social care in England including:

1) reforming the adoption system to eradicate unnecessary delays and find more adopters, so that more children can be placed quickly in a stable and loving home, and to improve services so that we can better support adoptive families;

2) reforming residential care, strengthening regulation and fundamentally changing the inspection framework to make sure that all children's homes are safe and secure places;

3) transforming fostering services to provide additional support for foster carers and ensuring local authorities take responsibility for providing kinship carers with help and assistance;

4) reforming the social work profession, improving social work education and the quality of day to day social work practice to support social workers in providing the best possible help and protection to children;

5) Reforming the child protection system, following Eileen Munro's review of the system in 2011;

6) undertaking innovative work to develop new and better interventions and ways of structuring and managing services;

7) reforming the Family Justice system to improve the experiences of children and families who go to court; and

8) intervening where there is failure to ensure that local authorities are doing enough to secure improvement.

Children's social care policy in Scotland, Wales and Northern Ireland is overseen by the devolved administrations in those countries.

Cyprus and Northern Cyprus

Questions

Asked by ***Lord Maginnis of Drumglass***

To ask Her Majesty's Government whether any part of the United Kingdom Sovereign Territory in Cyprus subject to proposed new arrangements with the Republic of Cyprus was, prior to 1960, ever owned wholly or partly by Turkish Cypriots.

[HL4836]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): Some areas of private land within the Sovereign Base Areas (SBA) are owned by Turkish Cypriots and are therefore covered by the Arrangement on non-military development. Some of this land may have been acquired prior to 1960; however, we do not hold this information on file. The Arrangement applies equally across the SBAs.

Asked by ***Lord Maginnis of Drumglass***

To ask Her Majesty's Government whether the proposed arrangement with the Republic of Cyprus relating to the United Kingdom Sovereign Territory

has been subjected to strategic military evaluation in the light of the proposed new Russian harbour and air facilities in Southern Cyprus. [HL4837]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): The arrangement signed by HM Government and that of the Republic of Cyprus on 15 January takes full account of the United Kingdom's military and national security requirements. The arrangement is fully consistent with the objectives in the United Kingdom's 1960 Declaration for the effective use of the Sovereign Base areas as military bases; the maintenance of a constructive and co-operative relationship with the Government of the Republic of Cyprus; and the protection of the interests of those resident or working in the areas. HM Government remains determined to work to those objectives, whilst continuing to safeguard our military and national security needs.

Employment: Young People

Question

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government how they plan to increase employment opportunities for young people in the United Kingdom. [HL4918]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): For the 19th consecutive month, we have seen the youth claimant count reduce, this shows that our approach is working.

Our Youth Contract, worth nearly £1 billion, builds on the substantial support already available to help unemployed young people enter work. The Contract includes more intensive support for all 18-24 year olds, work experience, sector-based work academy places and wage incentives worth up to £2,275 each, made available to employers who recruit a long term unemployed 18-24 year-old.

Furthermore, the Work Programme is better designed than our previous employment programmes, and is supporting more people than any previous programme.

Environment: Odour Nuisance

Question

Asked by ***Baroness Kennedy of Cradley***

To ask Her Majesty's Government what assessment they have made of the effectiveness of the guidance issued to local authorities to deal with odour nuisance; and whether there are any plans to update that guidance. [HL4898]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord De Mauley) (Con): In March 2010 Defra issued Odour Guidance for Local Authorities. Defra is currently reviewing all its environmental guidance to businesses and others as part of the Smarter Environmental Regulation Review. The aim is to reduce unnecessary regulatory burdens and ensure that the guidance available is simpler, clearer and more customer focused. The Odour Guidance for Local Authorities will be included in this review.

Food: Flour Fortification

Question

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government, further to the answer by Earl Howe on 21 January (HL Deb, col 567), whether they consider the compulsory addition of folic acid to flour will require parliamentary approval through primary legislation; what arrangements will be made to ensure that non-fortified flour and flour products are available to those who do not wish to ingest added folic acid; and what food fortifications are currently permitted in the United Kingdom. [HL4859]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): The Government has yet to make a decision on introducing mandatory fortification of flour with folic acid. If a decision is made to proceed with fortification of flour with folic acid, following a full public consultation, it would probably be enacted through amendment of the Bread and Flour Regulations 1998 and would be subject to parliamentary scrutiny procedures for secondary legislation.

The scope of fortification of bread and flour with folic acid is one of the issues being considered by the Government. The Scientific Advisory Committee on Nutrition (SACN) considered the impact of exempting wholemeal flour from mandatory fortification with folic acid and concluded that it would have little effect on neural tube defect affected pregnancy risk but would reduce the numbers of people with intakes of folic acid above the upper limit per day.

The United Kingdom currently requires fortification of bread with calcium, iron, niacin and thiamin. European Union legislation permits the voluntary fortification of all foods other than unprocessed foods and alcoholic beverages (except tonic wine) and specifies the minimum permitted levels of fortificants that must be present as well as labelling requirements.

Government Departments: Asbestos

Question

Asked by ***Lord Wigley***

To ask Her Majesty's Government what assessment they have made of the prevalence of asbestos materials in Ministry of Defence buildings, and in particular of the continued existence of chrysotile asbestos in Ministry of Defence married quarters buildings. [HL5047]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): The Ministry of Defence (MOD) keeps a register of all buildings, including Service Families' Accommodation, that are

known to contain asbestos. These buildings are inspected regularly in accordance with statutory guidelines as part of the MOD asbestos management plan.

Government Departments: Payroll Services

Question

Asked by ***Lord Kennedy of Southwark***

To ask Her Majesty's Government which companies provide the outsourced payroll services for each Government Department. [HL4889]

Lord Wallace of Saltaire (LD): This information is held by Departments.

Health: Polio

Question

Asked by ***Baroness Kinnock of Holyhead***

To ask Her Majesty's Government what is their assessment of the impact of violence against immunisers in Nigeria on polio eradication in Africa and on public health worldwide. [HL4987]

Baroness Northover (LD): Since 1988 the number of polio cases worldwide has decreased by more than 99%, from 350,000 to 389 in 2013. There were 53 confirmed polio cases in Nigeria in 2013, a reduction from 122 cases in 2012. The UK supports the Global Polio Eradication initiative (GPEI) which works closely with non-governmental organisations, community groups and religious leaders to improve awareness about polio and to negotiate access to insecure areas, to ensure health workers are safe and vulnerable children are vaccinated. In addition to the UK's support to GPEI, DFID has supported efforts in Nigeria to improve the security of vaccine workers by addressing the root causes of vaccine non-compliance and building community trust.

Holocaust

Question

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

To ask Her Majesty's Government what is their assessment of the statement by the Hungarian ambassador to the United Nations marking the 70th anniversary of the Holocaust and recognising the failure of the Hungarian authorities at the time to protect Jewish and Roma people. [HL4975]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): The British Government welcomes Hungary's commitment to address and eliminate anti-Semitism and all forms of racism, which has been demonstrated by organising the event to mark the 70th anniversary of the Holocaust at the UN on 23 January, and dedicating 2014 as Holocaust Memorial year in Hungary. These are significant opportunities to tackle anti-Semitism and to reflect upon and learn from the past. The UK and Hungary will work together against anti-Semitism through our forthcoming chairmanships of the International Holocaust Remembrance Alliance.

Houses of Parliament: Scrutiny Override

Question

Asked by ***Lord Boswell of Aynho***

To ask Her Majesty's Government, for each government department, from January to June 2013, (1) on how many occasions the scrutiny reserve resolution in the House of Lords was overridden, (2) on how many occasions the scrutiny reserve resolution in the House of Commons was overridden, and (3) in respect of how many documents an override occurred in (a) both Houses or (b) either House. [HL4954]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): The Government respects the scrutiny reserve resolutions of both Houses of Parliament and continues to work closely with the European Union Scrutiny Committees in each House to avoid breaching these wherever possible. When an override occurs the Government will continue to account for its actions in writing to the Chairs of the Scrutiny Committees. Between January – June 2013, a total of 526 Explanatory Memoranda were deposited with only 28 overrides. Fast-moving Common Foreign and Security Policy sanctions and restrictive measures remained the single largest override category, accounting for 23 of the 28. While this is of course regrettable, the Government is pleased to note that the trend in overall numbers has been downward since 2010.

The figures requested are set out in the table below:

Department	*(1). House of Lords Override*	*(2). House of Commons override*	*(a). No. of overrides in both Houses*	*(b). Total no. of overrides*
Cabinet Office (Office of National Statistics)	0	1	0	1
Department of Business, Innovation and Skills	1	1	1	1
Department of Health	0	1	0	1
Foreign and Commonwealth Office	23	21	21	23
HM Treasury	1	2	1	2
	25	26	23	28

Insurance: Elderly People

Question

Asked by ***Baroness Pitkeathley***

To ask Her Majesty's Government what action they intend to take to promote the development by the insurance industry of products to cover the cost of long-term care for older people. [HL4980]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): The Dilnot Commission on Long Term Care sought to define a new partnership between the individual and the State, with both contributing towards the cost of care and support. We believe that the financial services industry could and should be doing more to help people meet the costs of their care. That is why we have been working with industry and have committed to continue working with them through a joint statement of intent, published on 21 January, to support the development of the market.

Intelligence Services

Question

Asked by ***Lord Warner***

To ask Her Majesty's Government, further to the Written Answer by Baroness Warsi on 15 January (WA 24), what action a person can take to correct any erroneous information about him or her that he or she has reason to believe may have been passed to a United Kingdom intelligence service by the Israeli intelligence service. [HL4929]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): It is the long-standing policy of successive governments not to comment on matters of intelligence. However, if someone believes they have grounds to make a complaint or a claim against any of the Intelligence Agencies or public authorities vested with investigatory powers, the appropriate forum for bringing such a complaint or claim is the Investigatory Powers Tribunal (IPT).

International Youth Foundation

Question

Asked by ***Lord Kennedy of Southwark***

To ask Her Majesty's Government what is their assessment of the International Youth Foundation. [HL4945]

Baroness Northover (LD): There has not been any assessment undertaken of the International Youth Foundation, a US organisation that does not receive DFID funding.

Israel and Palestine

Question

Asked by ***Baroness Tonge***

To ask Her Majesty's Government what assessment they have made of the administration of the refugee camps in east Jerusalem; and what action they are taking to help end the strike by staff of the United Nations Relief and Works Agency for Palestine Refugees in the Near East. [HL4848]

Baroness Northover (LD): The United Nations Relief and Works Agency's (UNRWA) West Bank Field Office has been able to maintain a number of critical operations during the strike. The UK Government supports UNRWA's attempts to find a solution to the dispute and we have raised this issue with the Palestinian Authority at the highest level.

Kenya

Questions

Asked by ***Lord Luce***

To ask Her Majesty's Government why they are contributing funds to a memorial in Kenya to victims of the Mau Mau emergency. [HL5031]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): On 6 June 2013 the Secretary of State for Foreign and Commonwealth Affairs, my Rt. Hon. Friend the Member for Richmond (Yorks) (Mr Hague), informed Parliament that the Foreign and Commonwealth Office would settle the Mau Mau claims brought by Leigh Day on behalf of 5,228 Kenyans involved in the Mau Mau uprising. This settlement included a commitment to support construction of a memorial in Nairobi to the victims of torture and ill-treatment during the colonial era. The memorial will aim to promote reconciliation.

Asked by ***Lord Luce***

To ask Her Majesty's Government whether the proposed memorial in Kenya to victims of the Mau Mau emergency will include all the victims or one particular group. [HL5032]

Baroness Warsi: The UK is working with the Kenyan Human Rights Commission, the Mau Mau War Veterans Association, the Nairobi Governor's Office, and the National Museums of Kenya to facilitate the construction of a suitable memorial in Nairobi to the victims of the Emergency Period, as agreed under the settlement reached with Leigh Day. The exact design is yet to be agreed. We will want to make sure it is as inclusive as possible to promote reconciliation.

London Underground: Signalling

Question

Asked by ***Lord Bradshaw***

To ask Her Majesty's Government whether the Department for Transport has estimated any additional costs resulting from the recent cancellation by London Underground of the plan to re-signal the Circle, District and Metropolitan lines; and whether they consider there are likely to be delays in meeting the December 2018 deadline as a result of the cancellation. [HL4814]

The Minister of State, Department for Transport (Baroness Kramer) (LD): Under devolution the Mayor of London and Transport for London (TfL) are

responsible for London Underground, including delivery of the Tube Upgrade programme and related cost estimates. TfL issued a Press Release on 31 December announcing that the signalling contract for the Circle, District, Hammersmith and City and Metropolitan lines would be re-let, and that the original delivery timetable of 2018 currently remains unchanged.

NHS: Clinical Commissioning Groups

Question

Asked by ***Baroness Manzoor***

To ask Her Majesty's Government how many clinical commissioning groups have implemented the National Institute for Health and Care Excellence quality standards; and in what areas. [HL5040]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): NHS England has informed us that the information requested is not collected centrally.

Overseas Aid

Questions

Asked by ***Baroness Tonge***

To ask Her Majesty's Government whether they have plans to address the current deficit in the United Nations Relief and Works Agency for Palestine Refugees in the Near East budget; and if so, what they are. [HL4849]

Baroness Northover (LD): The UK provides £106.5m to the United Nations Relief and Works Agency (UNRWA) General Fund from 2011-15. The UK is also providing £28.9m to UNRWA for food security and schools in Gaza, and £23.5m to Palestinian refugees affected by the Syria crisis across the region.

Asked by ***Baroness Tonge***

To ask Her Majesty's Government what assessment they have made of the future of United Nations Relief and Works Agency for Palestine Refugees in the Near East. [HL4850]

Baroness Northover: The UK Government believes that the United Nations Relief and Works Agency (UNRWA) plays a critical role in providing services for and maintaining the rights of Palestinian refugees, pending a political solution to the Arab-Israeli conflict. UNRWA's Medium Term Strategy for 2016-21 will set out how the agency will operate in the context of growing needs and financial constraints, under the leadership of the new Commissioner-General Pierre Krähenbühl.

Pakistan

Question

Asked by ***Baroness Berridge***

To ask Her Majesty's Government what representations they have made to the government of Pakistan about the sentencing of Muhammad Asghar to death for blasphemy. [HL4983]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): I am deeply concerned by the death sentence issued in the case of Muhammad Asghar, a vulnerable British national who has a history of mental illness. It is our longstanding policy to oppose the death penalty in all circumstances. On Monday evening I spoke to the Chief Minister of Punjab, Shahbaz Sharif, and I will continue raising Mr Asghar's case in the strongest possible terms with the Pakistani government as are officials here and in Islamabad. We are working hard to continue to provide consular support to Mr Asghar - to ensure he is being properly looked after and has proper and swift access to legal advice in appealing this sentence.

Palestine

Question

Asked by ***Baroness Tonge***

To ask Her Majesty's Government whether they consider Palestinians living in refugee camps in Gaza, the West Bank and Lebanon to have refugee status. [HL4851]

Baroness Northover (LD): The UK Government is a signatory to the UN General Assembly Resolution 302(IV) of 8 December 1949 which established the United Nations Relief and Works Agency (UNRWA) and set out its mandate. The UK government considers Palestinians registered with UNWRA to be refugees.

Pensions

Question

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government how they will ensure that women receive the correct state pensions. [HL4991]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): The provisions for individuals' state pensions entitlement are set out in primary and secondary legislation. This will be the case for the new single-tier pension and the change to state pension age. The delivery of the state pension reforms through HM Revenue & Customs and Department for Work and Pensions systems will be designed to ensure that people receive their correct entitlement.

A core aim of our communication strategy will be to ensure that people have information about the changes and how they may be affected.

The Department for Work and Pensions monitors accuracy by carrying out regular detailed case examinations to check the accuracy and monetary value of error of benefits, including State Pension, to ensure that both women and men are receiving their correct entitlement. A Department for Work and Pensions Quality Assurance Framework which will provide an aligned quality and checking methodology is also currently under development.

Planning

Question

Asked by ***Lord Marlesford***

To ask Her Majesty's Government how they expect local planning authorities to plan to meet local housing needs; what respective weight they expect local planning authorities to give (1) to local housing shortages, and (2) to stimulating the local economy to reduce unemployment; and what approach local planning authorities should take when there is a very low level of unemployment. [HL4950]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Stowell of Beeston) (Con): The National Planning Policy Framework asks local authorities to assess objectively their housing need requirements for market and affordable housing, and to identify and update annually a supply of specific deliverable sites for five years worth of housing against their housing requirements. When assessing housing need, councils should consider an appropriate range of issues, which could include housing shortages and local economic conditions.

We recently produced draft national planning practice guidance on assessing development needs, including housing, which is available at http://planningguidance.planningportal.gov.uk/. The final version will go live following consideration of comments received during the test phase.

Post-2015 Development Framework

Question

Asked by ***Baroness Kinnock of Holyhead***

To ask Her Majesty's Government what plans they have to include food and nutrition security in the United Nations post-2015 development framework. [HL4988]

Baroness Northover (LD): The Government is prioritising food and nutrition security in the post 2015 development framework. We have already developed a set of global goals consistent with the recommendations of the Report of the High- Level Panel of Eminent Persons on the Post-2015 Development Agenda, published in 2013 and the Zero Hunger Challenge of the UN Secretary General. The Government continues to work with international partners in developing and refining these goals.

Post-2015 Millennium Development Goals

Question

Asked by ***The Lord Bishop of Worcester***

To ask Her Majesty's Government what steps they are taking to include a robust gender mainstreaming goal in the post-2015 Millennium Development Goals. [HL5020]

Baroness Northover (LD): The UK has been clear in its advocacy for a standalone post-2015 goal on gender equality and girls' and women's empowerment as well as ensuring that these issues are mainstreamed in the goals and targets in the framework to be agreed by the United Nations.

We are working with others across the international community, including civil society, to ensure that this is achieved.

Prisoners: Suicide and Murder

Question

Asked by ***Lord Lester of Herne Hill***

To ask Her Majesty's Government what steps they intend to take to reduce the suicide and murder rates in prisons in England and Wales. [HL4820]

The Minister of State, Ministry of Justice (Lord Faulks) (Con): The Government is committed to reducing the number of self-inflicted deaths and homicides in prisons and strenuous efforts are made to learn from them to help prevent further deaths.

All apparent homicides in prison are subject to a police investigation, an independent investigation by the Prisons and Probation Ombudsman and a Coroner's inquest. The National Offender Management Service (NOMS) will carefully consider the findings and recommendations from the investigations and disseminate the learning from them.

All prisons are required to have procedures in place to identify, manage and support people who are at risk of harming themselves or others and to reduce that risk. The Assessment, Care in Custody and Teamwork (ACCT) process is a prisoner-centred, flexible care planning system to support prisoners identified as at risk of suicide or self-harm. A Cell Sharing Risk Assessment (CSRA) is undertaken for all prisoners to determine their risk of seriously assaulting or potentially killing a cell mate.

NOMS takes the responsibility of keeping staff, prisoners and visitors safe extremely seriously and are currently rigorously reviewing the management of violence in prisons with a view to introducing further improvements to ensure prisons are safer places for everyone.

Prisoners: Suicide and Self-harm

Question

Asked by ***Lord Beecham***

To ask Her Majesty's Government what steps they intend to take to reduce the incidence of suicide and self-harm among male prisoners. [HL4774]

The Minister of State, Ministry of Justice (Lord Faulks) (Con): The Government is committed to reducing the incidence of self-harm and self-inflicted deaths in prisons and every effort is made to learn from them to help prevent further deaths.

All prisons are required to have procedures in place to identify, manage and support people who are at risk of harm to themselves. The Assessment, Care in Custody and Teamwork (ACCT) process provides a prisoner-centred, flexible care planning system for those identified as at risk of suicide or self-harm. The National Offender Management Service collates and disseminates learning from deaths and Prisons are also required to ensure that they have procedures in place to apply learning locally to prevent future deaths.

The ACCT system is designed to ensure that all prisoners are managed in a way that is responsive to individual needs and risks, including those related to gender. An analysis of suicide and self-harm by gender is included in the Safety in Custody Statistics Bulletin, available at www.gov.uk/government/publications/safety-in-custody-statistics.

Public Records: Colonial Documents

Question

Asked by ***Lord Lester of Herne Hill***

To ask Her Majesty's Government whether they intend to include professional historians and archivists in the process of declassifying and releasing to the National Archives documents related to Britain's colonial past held at HMG Communications Centre at Hanslope Park and to ensure that the process is conducted with all deliberate speed. [HL4914]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): Professional historians and archivists are involved in the process of declassifying and releasing material related to Britain's colonial past to the National Archives. Foreign and Commonwealth Office (FCO) archive records are held by the FCO rather than the Government Communications Centre. These records are housed primarily in FCO premises at Hanslope Park. A smaller proportion of archive records are held in other FCO buildings. Documents relating to Britain's colonial past form part of the FCO's special collections, which consist of files outside the standard sequence of departmental and overseas post files. The special collections are estimated to contain 600,000 files, although not all of these files were created in the colonial period. As the Minister of State for Foreign and Commonwealth Affairs, my right hon. Friend the Member for Aylesbury (Mr Lidington) explained in a Written Ministerial Statement on 12 December 2013, Official Report column 55WS, our aim is to prioritise material from these legacy records which is likely to be of greatest public interest and to release this over a 6 year period. An overview of our release plan is available at www.gov.uk/archive-records.

The FCO's Archive Management Team, which includes specialist records managers, is responsible for the preparation of FCO archive files for transfer to The National Archives (TNA). This includes the selection of files suitable for permanent preservation under the guidance and supervision of TNA, and the sensitivity review of these files.

The FCO's sensitivity reviewers, who are primarily former senior diplomats, use their extensive knowledge and experience of diplomatic work to determine whether material being reviewed for release remains sensitive and should be therefore be withheld for a specified period under Freedom of Information Act exemptions. This includes material which, if released, would damage the UK's international relations. In practice, we estimate that the FCO only withholds around 1% of material being prepared for transfer to TNA.

The FCO's applications for redaction (blocking of words and sentences) and for file closure or retention are subject to scrutiny by the Lord Chancellor's Advisory Council on National Records and Archives. The Advisory Council is chaired by the Master of the Rolls and its membership is made up of professional historians, archivists and academics. The terms of reference of the Advisory Council and a list of its members are provided on the TNA website. In addition, Professor Badger, Paul Mellon Professor of American History and Master of Clare College Cambridge, will provide independent oversight of the FCO's special collections release programme. Professor Badger has made a statement about his role as Independent Reviewer of the special collections on the website at: www.gov.uk/archive-records.

A second FCO Records Day is planned for 9 May 2014 following a similar event held in 2013. This will be a further opportunity for interested historians to discuss the Special Collections and other archive records issues with FCO officials who are responsible for the management and release of FCO archive records.

Railways: Crossrail

Question

Asked by ***Lord Bradshaw***

To ask Her Majesty's Government whether they are working to establish any benefits of extending Crossrail to Reading. [HL5035]

The Minister of State, Department for Transport (Baroness Kramer) (LD): The Department for Transport has carried out an initial evaluation of the possibility of extending some terminating Crossrail services from Maidenhead to Reading and, over the coming months, the Department and Transport for London as Joint Sponsors of the Crossrail project will be carrying out further detailed evaluation of this proposal.

The Department remains focussed on the delivery of the core Crossrail scheme that will see services terminate at Maidenhead at the Western end of the route.

Railways: InterCity East Coast Franchise

Question

Asked by ***Lord Bradshaw***

To ask Her Majesty's Government how many potential bidders sought to pre-qualify for the Intercity East Coast replacement franchise. [HL5034]

The Minister of State, Department for Transport (Baroness Kramer) (LD): 15 companies expressed an interest in the InterCity East Coast competition. Following extensive market engagement 3 potential bidders sought to pre-qualify.

Roads: Litter

Question

Asked by ***Lord Marlesford***

To ask Her Majesty's Government whether they will arrange for the Highways Agency to extend the use of electronic warning signs against littering from vehicles, including to the A14 trunk road. [HL4916]

The Minister of State, Department for Transport (Baroness Kramer) (LD): The Highways Agency is committed to improving road safety and the use of Variable Message Signs (VMS) is seen to be a useful tool in helping to influence driver behaviour.

The Agency has been trialling the effectiveness of anti-litter messages on its VMS as part of a number of trials and these have been run in the East Midlands, North West and on the M25 to date.

Once it has been determined which of the anti-litter messages has been most effective, the intention is to use the appropriate legend nationwide as part of any future anti-littering activity, where the operability of the VMS allows.

Roads: Motorway Service Stations

Question

Asked by ***Lord Avebury***

To ask Her Majesty's Government what estimate they have made of the impact on the number of deaths and injuries of the opening of a motorway service station selling alcohol; and whether they intend to take any steps to stop further licensed premises being opened on motorways. [HL4845]

The Minister of State, Department for Transport (Baroness Kramer) (LD): The Licensing Act 2003 bans the sale of alcohol at certain motorway service areas (MSAs) but does not extend to all of them. At MSAs which are not covered by this Act, the granting of premise licences for the sale and consumption of alcohol is a matter for the local licensing authority. The Government is not consulted on the decisions made by these authorities and any advice on road safety matters is provided by the police.

The Government included MSAs as part of the public consultation on the Alcohol Strategy in 2012/13. The Government's response to this consultation was published in July 2013 and stated that this issue would be considered further.

We also record and scrutinise the number of drink driving casualties across Great Britain.

Shipbuilding

Question

Asked by ***Lord Jopling***

To ask Her Majesty's Government, further to the Written Answer by Viscount Younger of Leckie on 23 January to question HL4743 (WA 166), whether he will now answer the question which was asked. [HL4962]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Viscount Younger of Leckie) (Con): I refer my noble Friend to my answer of 23 January where I outlined that the Government has already allocated £13 million of Regional Growth funding to the Solent Futures project which will provide significant support to the local shipbuilding sector. The Solent Maritime Forum is considering what further action and support is needed for Solent to maintain its maritime heritage and drive growth locally in this important sector. The Minister for Portsmouth will review the Forum's findings when it reports back in March. This report will also feed into Solent Local Enterprise Partnerships (LEP's) Strategic Economic plan and any identified funding requirements can be considered as part of the LEP's bid into the £2billion per annum Local Growth Fund in competition with other LEPs.

Shipping: Maritime Training

Questions

Asked by ***Lord Radice***

To ask Her Majesty's Government what steps they are taking to help newly qualified maritime officers obtain their first place of employment. [HL4822]

The Minister of State, Department for Transport (Baroness Kramer) (LD): The Department for Transport is considering a number of options to ensure that additional funding for the Support for Maritime Training (SMarT) is utilised in the best manner. The reinstatement of part of SMarT 2 which funds training towards a higher management level certificate is part of that consideration. Once fully qualified, UK higher level certificate holders are highly sought after in the global maritime sector.

Asked by ***Lord Radice***

To ask Her Majesty's Government what assessment they have made of the quality of the sea training experienced by maritime officer cadets on board ships in the United Kingdom tonnage tax scheme. [HL4823]

Baroness Kramer: The requirements for shipboard training experience is set out in three ways:

1. Marine Guidance Note (MGN) 455, which prescribes the arrangements for training including the appointment of a Designated Shipboard Training Officer (DSTO) and the requirements for vessel type and flag;

2. (The Training Itself) - The Merchant Navy Training Board (MNTB) approved training programme as evidenced by the Trainee Record Book (TRB) which lays down the need for cadets to gain practical experience in various aspects of seamanship;

3. This sits alongside the syllabus for training as per the requirements of the Standards of Training, Certification and Watchkeeping (STCW) Convention.

Somaliland

Questions

Asked by ***Lord Chidgey***

To ask Her Majesty's Government what is their assessment of the extent to which the United Kingdom's intervention in Somaliland has achieved a more stable and prosperous region, and in particular (1) the recognition of the authority of state institutions, (2) an increase in the proportion of the population perceiving improved security, (3) the country's finances being managed on equable geographic and clan grounds, and (4) the achievement of a sustainable fiscal environment. [HL4852]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): The UK is committed to the development of stability and prosperity in Somaliland and the wider region.

The Somaliland Development Fund, supported by the UK, supports this effort by improving delivery of key public services through transparent and accountable systems, underpinned by public financial management and wider public sector reform. The Somaliland Administration now has in place a plan to improve its public financial management and increase budget transparency. The UK is also supporting the development of the private sector, and planning a new programme to enable the Somaliland Administration to increase revenue generation in the long-term.

The UK is also working with the Somaliland Administration to build its capacity in counter terrorism in an effective manner, compliant with legal and human rights obligations, and to strengthen border and aviation security. There has not been a major terrorist attack in Somaliland since 2008.

In our engagement with the Somaliland Administration, we have consistently underlined the importance the UK places on equitable development across the whole of Somaliland, including via the Somaliland Development Fund.

The UK has also consistently encouraged and supported dialogue between Somaliland and the Federal Government of Somalia, hosting in June 2012 the first face to face talks since Somaliland's declaration of independence. We welcome and support the ongoing dialogue between the two parties facilitated by Turkey.

Asked by ***Lord Chidgey***

To ask Her Majesty's Government what is their assessment of the extent to which the United Kingdom's intervention in Somaliland has achieved improved and better-resourced core state functions, and in particular (1) improvements in access to basic services, (2) increased employment levels, (3) budget transparency and accountability including pro-poor allocation, and (4) increased awareness of service delivery and budget improvements amongst the media and civil society. [HL4853]

Baroness Warsi: We are working with the Somalilanders to improve healthcare, water provision, roads, the environment, help for farmers, education, and the rule of law. We have improved maternal health, newborn and child health, and nutrition levels. For example, more than 4,300 children under five have been inoculated against diphtheria, whooping cough and tetanus.

Department for International Development (DfID) support to the Somaliland Administration has helped create 23,000 long-term jobs, and 105,000 days of paid work for people, as well as helping to create the right environment for business.

UK assistance has enabled the Somaliland Administration to develop its own strategy for improving the management of public finances, which includes work on budget transparency, accountability and oversight, and the process for determining budget allocations.

Through the DfID health programme in Somaliland, communities have been mobilised to increase their access to, and use of, health services. This includes activities to generate awareness of preventive measures to improve health, as well as awareness on when and where to access to treatment that may be required. We also capitalise on major events to encourage media interest in service delivery.

South Sudan

Questions

Asked by ***The Earl of Sandwich***

To ask Her Majesty's Government what is their assessment of the role the Sudan Troika of the United Kingdom, the United States and Norway has played, both in the negotiations between the parties in South Sudan and in international meetings outside South Sudan. [HL4930]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): The Troika has played an influential role in engaging with both parties to press for a negotiated resolution to the conflict. The Secretary of State for Foreign and Commonwealth

Affairs, my Rt. Hon. Friend the Member for Richmond (Yorks) (Mr Hague), and his US and Norwegian counterparts have coordinated their efforts in urging all parties to an immediate cessation of violence and been strong advocates of the mediation efforts led by the Inter-Governmental Authority on Development (IGAD). All three Troika countries sent senior officials to Juba at an early stage in the conflict, and have maintained this high level of engagement both in South Sudan and in the region.

The UK's Envoy for the South Sudan has been active with his Troika counterparts in facilitating dialogue, including through travelling to South Sudan for direct talks with Riek Machar in support of IGAD's outreach to both parties. The Envoys have engaged both parties at the talks in Addis Ababa to encourage them to reach agreement on the cessation of hostilities agreement, and are now providing a supporting role in establishment of the IGAD-led monitoring mechanism which is intended to oversee its implementation. The Under-Secretary of State, my Hon. Friend the Member for Boston and Skegness (Mark Simmonds) discussed with his US and Norwegian counterparts the importance of a coordinated response to the situation in South Sudan while attending the African Union Summit in Ethiopia. He also spoke with the South Sudanese Foreign Minister, stressing the need for a lasting peace in the country.

Asked by ***The Earl of Sandwich***

To ask Her Majesty's Government what is their assessment of the contribution of the Inter-Governmental Authority on Development to the talks on South Sudan; and what is their assessment of the neutrality of that body. [HL4931]

Baroness Warsi: We strongly support the decision made at the Inter-Governmental Authority on Development (IGAD) Summit of 27 December to appoint mediators that have extensive regional experience and established relationships with all parties. In discussions with regional leaders, the Secretary of State for Foreign and Commonwealth Affairs, my Rt. Hon. Friend the Member for Richmond (Yorks) (Mr Hague), and the Under-Secretary of State, my hon. Friend the Member for Boston and Skegness (Mark Simmonds) have continued to stress the importance of neutrality in bringing both sides to the negotiating table. We welcome the fact that both parties have accepted the role of the mediators, and that these discussions led to the signing of a cessation of hostilities agreement in Addis Ababa on Thursday 23 January.

We are clear that this is only the beginning of a peace process, and there has not yet been an end to the fighting on the ground. We continue to support the efforts of the IGAD mediators and other international actors by urging all parties to abide by the cessation of hostilities agreement and to begin to engage on a broader political process.

Asked by ***The Earl of Sandwich***

To ask Her Majesty's Government what is their diplomatic role in relation to a new peace agreement in South Sudan. [HL4949]

Baroness Warsi: We have been in regular contact with local and regional leaders since the outbreak of violence, supporting the Inter-Governmental Authority on Development (IGAD)-led mediation efforts. As part of Troika, the UK has played an influential role in engaging with both parties to press for a negotiated resolution to the conflict. The Secretary of State for Foreign and Commonwealth Affairs, my right hon. Friend the Member for Richmond (Yorks) (Mr Hague), and his US and Norwegian counterparts, have urged all parties to commit to a cessation of hostilities without preconditions. All three Troika countries sent senior officials to Juba at an early stage in the conflict, and have maintained this high level of engagement both in South Sudan and in the region.

The UK's Envoy for the South Sudan talks has been active with his Troika counterparts in facilitating dialogue, including through travelling to South Sudan for direct talks with Riek Machar in support of IGAD's outreach to both parties. The Envoys have engaged both parties at the talks in Addis Ababa to encourage them to reach agreement on the cessation of hostilities agreement, and are now providing a supporting role in establishment of the IGAD-led monitoring mechanism which is intended to oversee its implementation. The UK will continue to play a very active diplomatic role in the development and implementation of the political process that needs to follow the cessation of hostilities. These objectives formed the basis of the Under-Secretary of State, my hon. Friend the Member for Boston and Skegness (Mark Simmonds)'s discussions with the Kenyan Ethiopian, Ugandan, Sudanese, South Sudanese Foreign Ministers, the AU Commission Chairperson, and the Head of the UN Mission to South Sudan during the recent AU Summit in Ethiopia.

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

To ask Her Majesty's Government what assessment they have made of the recruitment of child soldiers by the White Army in South Sudan; what are the command structures of the Army; who they consider controls it; and what they consider can be done to disarm it. [HL4973]

Baroness Warsi: The so-called White Army is an amalgamation of disparate community-based forces with wide-ranging motivations including ethnic rivalry and political grievances. It does not have a command structure in the conventional military sense and has no clear single commander. Various claims have been made during the recent conflict about the political affiliation and command of groups of Nuer youth, described as the White Army by some commentators and political leaders, but evidence to support these claims is limited.

We do not currently have direct evidence of active recruitment of child soldiers by armed groups, but we judge that it is highly likely to have taken place. It will take some time following the cessation of hostilities to assess the humanitarian impact on South Sudan's children, and whether any resurgence of child recruitment may have taken place.

The Cessation of Hostilities agreement signed on 23 January should apply to all those groups involved in the recent conflict, including those groups who have

been described as the White Army. We expect the demobilisation and disarmament of irregular forces will be important questions for the political negotiations that are expected to resume on 7 February. It is vital that the needs of any children recruited during the conflict are specifically addressed as part of any disarmament and demobilisation process.

Special Educational Needs

Question

Asked by ***Lord Black of Brentwood***

To ask Her Majesty's Government what assessment they have made of the role of cat ownership in the provision of therapy for people with special needs. [HL5076]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): No assessment has been made of the role of cat ownership in the provision of therapy for people with special needs.

Teachers

Question

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government, further to the Written Answer by Lord Nash on 22 January (HL Deb, col 145) regarding the number of male and female teachers in state primary and secondary schools, what action they intend to take to attract more men into the teaching profession; and whether they support a target figure of 45 per cent presence. [HL4993]

The Parliamentary Under-Secretary of State for Schools (Lord Nash) (Con): The quality of teachers is the single most important factor in determining how well pupils achieve. Last year's intake of postgraduate trainee teachers was the highest quality ever, reflecting the introduction of School Direct and the increased freedoms and powers for teachers introduced by this Government. Men now comprise 21% of primary trainees, the highest on record; and 38% of secondary trainees.

The Initial Teacher Training Census 2013 is available here: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/260849/Main_Text_-_SFR49-2013.pdf

Teachers and Teaching Assistants

Question

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government, further to the Written Answer by Lord Nash on 22 January (HL Deb, col 145) regarding the number of male and female teaching assistants in state primary and secondary schools, what action they intend to take to attract more men to a career as a teaching assistant; and whether they support a target figure of 45 per cent presence. [HL4994]

The Parliamentary Under-Secretary of State for Schools (Lord Nash): The recruitment of teaching assistants is a matter for individual school employers, not the Government.

Transforming Rehabilitation

Question

Asked by ***Lord Beecham***

To ask Her Majesty's Government what system will be put in place in order for probation staff to produce risk assessments of current cases prior to their allocation to either the National Probation Service or a community rehabilitation company under the Transforming Rehabilitation plans; and what the timeframe for any such system will be. [HL4376]

The Minister of State, Ministry of Justice (Lord Faulks) (Con): Public protection is at the heart of our reformed system and is of primary consideration in our plans to transfer cases to the National Probation Service and Community Rehabilitation Companies.

Responsibility for the probation caseload transfers to the National Probation Service (NPS) and Community Rehabilitation Companies (CRCs) on 31 May 2014.

The majority of cases will transfer into the new structure with the current case manager. Those cases that do need to be transferred to a different case manager will be transferred in a way which maintains both continuity of supervision and ensures public protection. There is no requirement to do this by the point of NPS and CRC split where it is felt that, to do so, may compromise public protection and risk management.

Where offenders are subject to a Risk Management Plan (RMP), we have issued clear guidance to probation trusts stating that the RMP must be updated prior to transfer and the new officer must familiarise themselves with the RMP. Offenders assessed as presenting low risk of serious harm are not required to have a RMP.

Uganda

Questions

Asked by ***Lord Chidgey***

To ask Her Majesty's Government what discussions they are having with the government of Uganda and its development partner companies, particularly those registered in the United Kingdom, on putting in place transparent and accountable institutions and procedures for managing the emerging oil sector in Uganda. [HL5001]

Baroness Northover (LD): Her Majesty's Government has regular and ongoing discussions with the Government of Uganda on issues of transparency and accountability, including in the oil sector. Uganda has pledged to sign up to the Extractives Industry Transparency Initiative (EITI) following the enactment of the Public Financial Management Bill.

We encourage all companies involved in the oil sector in Uganda to become corporate supporters of EITI standards. We welcome the public expressions of support for transparency and accountability that have been made by British companies with an interest in the oil sector in Uganda.

Asked by ***Lord Chidgey***

To ask Her Majesty's Government what assessment they have made of the degree of transparency in the Ugandan oil sector. [HL5002]

Baroness Northover: The Government of Uganda has passed upstream and midstream petroleum bills, which include provisions for information sharing and Parliamentary oversight.

Uganda has pledged to sign up to the Extractives Industry Transparency Initiative (EITI) following the enactment of the Public Financial Management Bill.

Her Majesty's Government places high value on membership of the EITI and has had regular and ongoing discussions with the Government of Uganda on this issue.

Asked by ***Lord Chidgey***

To ask Her Majesty's Government what discussions they have had, or are having, with the government of Uganda over that country joining the Extractive Industries Transparency Initiative. [HL5003]

Baroness Northover: Uganda has pledged to sign up to the Extractives Industry Transparency Initiative (EITI) following the enactment of the Public Financial Management Bill. Her Majesty's Government places high value on membership of the EITI and has had regular and ongoing discussions with the Government of Uganda on this issue.

UK Honours

Question

Asked by ***Baroness Kennedy of Cradley***

To ask Her Majesty's Government how many people who are not British citizens have been given honorary awards in the past ten years (1) by year, and (2) by country. [HL4897]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): The table below records the number of foreign nationals and nationals of Commonwealth countries of which Her Majesty the Queen is not Head of State who have received honorary awards in the past 10 years. Nationals of countries of which The Queen is Head of State (Realms) receive substantive (ie not honorary) awards. This information is taken from Foreign and Commonwealth Office records.

Country	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*	*2011*	*2012*	*2013*
USA	13	26	14	11	7	15	10	7	10	11
Rep of Ireland	12	13	6	6	5	5	9	6	7	9
Belgium	5	1			1	1	1	1		2
France	37	8	10	5	5	6	2	5	3	8
Austria	1					1	1			
Italy	5	11	3	2	1		2			1
Kuwait	1		1			1			15	
South Korea	4			1	1	2				14
Sweden	1	2	1	2			2	1		
Israel	1		2		2	2	2			
Japan	4	5	5	1	3	2	3	7	4	3
Ghana	2		1	1			1			
UAE	2						3			14
Saudi Arabia	1									
Spain	4	3	1	1		2	1			3
Netherlands	3	7	3	3	2	2	1	1		4
Germany	10	6	6	5		1	4		2	
India	1	1	7		6	2	5	2	1	
Mauritius	1	1								
Denmark	4		2			1	1		1	
Switzerland	1		2	1						
Argentina	2	1		1						
Pakistan	3		1		1	1		3		
Nigeria	2						1	1		
Nepal	1			3	3	1				
Portugal	2	1	1	2	1					
Greece	2		1		1				1	
Turkey	2				1			1	1	

Country	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*	*2011*	*2012*	*2013*
Brazil	2		1		1					1
Iraq	1						1			
Philippines	1							1		
Malaysia	2		3	2			2	1	1	
Qatar	1						2			
Tunisia	1									
Yemen	1		1	1						
Kenya	1	1			1					
Hungary	1				1		1			1
Vanuatu	1									
Jordan	1	1	1		3		1		1	
Russia	2	2	1	3						1
Poland	9	1								
Finland		1	2	1	1					
Uruguay		1	1		1			1		
Malta		3								1
Singapore		1	1		1					
Syria		1								
Norway		1			1		1		1	
Bangladesh		1	1	1				1		
Taiwan			1		1					
Mexico		3	5			1			1	
Morocco		1			1			1	1	
Serbia			4							
Thailand			2	1						
Romania			1							
Palestine			2							
Colombia			1							
Estonia			1		1					
Lithuania			1							
Latvia			1							
Mozambique				1						
Gambia				1				1		
Paraguay				1						
South Africa				1	1		2			2
Haiti				1			1			
Slovakia				1						
Tanzania				1						
Bosnia				1						
Montenegro				1						
Chile					1		1			
Bulgaria					1					
Libya					1					4
Sri Lanka					4					1
Lebanon					1					
Indonesia							2		15	
China							2			
Oman							1			
Sudan								1		
Mali								1		
Peru								1		1
Egypt								1	1	1
Czech Rep									1	
Senegal									1	

Country	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Iran										1
Bahrain										1
Guyana										1

Universal Credit

Questions

Asked by ***Baroness Grey-Thompson***

To ask Her Majesty's Government what estimate they have made of the cost per year, once universal credit is fully rolled out, of awarding the second earner, in a household where a couple are both in work, a second earner's work allowance of (1) £100 a month, and (2) £50 a month. [HL4831]

To ask Her Majesty's Government what estimate they have made of the cost per year, once universal credit is fully rolled out, of increasing, for households with responsibility for a child or young person, by (1) £100 a month, and (2) £50 a month, (a) the lower work allowance of a single claimant with limited capability for work, (b) the higher work allowance of a single claimant with limited capability for work, and (c) the lower work allowance of a couple where one has limited capability for work; and what estimate they have made of the cost of increasing by (1) £150 a month, and (2) £100 a month, the lower work allowance of a couple where both have limited capability for work. [HL4833]

To ask Her Majesty's Government what estimate they have made of the cost per year, once universal credit is fully rolled out, of increasing, for households without responsibility for a child or young person, (1) the lower work allowance of a single claimant with limited capability for work by £50 a month, (2) the lower work allowance of a couple where one has limited capability for work by £50 a month, and (3) the lower work allowance of a couple where both have limited capability for work by (a) £150 a month, and (b) £100 a month. [HL4834]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): Entitlement to Universal Credit is based on an assessment of household rather than individual circumstances. We believe that investing in higher work allowances that benefit all households, rather than adding complexity by creating another work allowance for second earners, is the right way to ensure that as many households as possible have someone in work, so that work is paying for that household.

Costs shown do not take account of any impact on work incentives, they are rounded to nearest £50 million and are in 2014/15 prices.

The cost per year impact of increasing Universal Credit work allowances for second earners where both members of the couple are in work by a)£100 b) £50 would increase Universal Credit expenditure once fully rolled out by around a) £400 million a year b) £200 million a year.

Universal Credit is calculated at a benefit unit level so any increase to the work allowance would impact the couple as a whole.

For households with responsibility for a child or a young person. The steady state annual cost of increasing the lower and higher work allowances by a) £100 b) £50 for a single claimant with limited capability for work; increasing the lower allowance for a couple by a) £100 b) £50 where only one has a limited capability for work and by a) £150 b) £100 for a couple where both have a limited capability for work would increase Universal Credit expenditure, once fully rolled out is a) around £50 million per year, b) less than £10 million per year.

The costs are relatively low because few people would gain from this change. The claimants concerned will be claiming the higher allowance for a person responsible for one or more children or qualifying young persons prior to the increase to the limited capability work allowance.

For households without responsibility for a child or a young person. The steady state annual cost of increasing the work allowance by £50 for a single person with limited capability for work or a couple were one has a limited capability for work and by a) £150 b) £100 for a couple where both have a limited capability for work would increase Universal Credit expenditure, once fully rolled out, by a) around £50 million a year b) around £50 million a year.

Tuesday 4 February 2014

ALPHABETICAL INDEX TO WRITTEN STATEMENTS

Tuesday 4 February 2014

ALPHABETICAL INDEX TO WRITTEN ANSWERS

NUMERICAL INDEX TO WRITTEN ANSWERS

Volume 752
No. 110

Tuesday
4 February 2014

CONTENTS

Tuesday 4 February 2014

Grand Committee