Vol. 753
No. 138

Monday
31 March 2014

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

£4·00

Lords wishing to be supplied with these Daily Reports should give notice to this effect to the Printed Paper Office.

No proofs of Daily Reports are provided. Corrections for the bound volume which Lords wish to suggest to the report of their speeches should be clearly indicated in a copy of the Daily Report, which, with the column numbers concerned shown on the front cover, should be sent to the Editor of Debates, House of Lords, within 14 days of the date of the Daily Report.

This issue of the Official Report is also available on the Internet at
www.publications.parliament.uk/pa/ld201314/ldhansrd/index/140331.html

PRICES AND SUBSCRIPTION RATES

DAILY PARTS

Single copies:
Commons, £5; Lords £4

Annual subscriptions:
Commons, £865; Lords £600

LORDS VOLUME INDEX obtainable on standing order only.
Details available on request.

BOUND VOLUMES OF DEBATES are issued periodically during the session.

Single copies:
Commons, £105; Lords, £60 (£100 for a two-volume edition).
Standing orders will be accepted.

THE INDEX to each Bound Volume of House of Commons Debates is published separately at £9·00 and can be supplied to standing order.

All prices are inclusive of postage.

The first time a Member speaks to a new piece of parliamentary business, the following abbreviations are used to show their party affiliation:

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
Ind SD	Independent Social 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

No party affiliation is given for Members serving the House in a formal capacity, the Lords spiritual, Members on leave of absence or Members who are otherwise disqualified from sitting in the House.

House of Lords

Monday, 31 March 2014.

2.30 pm

Prayers—read by the Lord Bishop of Leicester.

Retirement of a Member: Lord Grenfell

Announcement

2.37 pm

The Lord Speaker (Baroness D'Souza): My Lords, I have to notify the House that the noble Lord, Lord Grenfell, has indicated his wish to retire permanently from the service of the House. His retirement will take effect today. I am sure that the House will wish to join me in recognising the many years of service that the noble Lord has given to this House. Furthermore, the House will want to congratulate the noble Lord on taking this difficult but entirely praiseworthy step. On behalf of all your Lordships, I wish the noble Lord a very happy retirement.

Airports: Heathrow

Question

2.37 pm

Asked by ***Lord Spicer***

To ask Her Majesty's Government whether they have made any assessment of the future ability of United Kingdom airlines to operate out of Heathrow Airport.

The Minister of State, Department for Transport (Baroness Kramer) (LD): My Lords, the Government have made no such assessment. The future ability of United Kingdom and other airlines to operate at specific airports is a commercial matter for airlines and airports. The Government publish aviation forecasts for the UK, including air transport movements and passenger numbers, most recently in January 2013. The independent Airports Commission will report in 2015 on any recommended requirements for additional capacity to maintain the UK's global hub status.

Lord Spicer (Con): Is the Minister aware that it is because of the uncertainties about capacity at Heathrow that British Airways is undecided about whether to keep a big hub there? Would that not have been unthinkable in the 1980s, for instance, when Heathrow was the No. 1 international airport in the world and when I was Minister of Aviation?

Baroness Kramer: My Lords, Heathrow is an incredibly successful airport where many people vie for slots. The commission has been clear that there is no crisis of capacity in the south-east now, although it concluded that we will need one additional runway in the south-east by 2030 and, in all likelihood, a second by 2050. In the mean time, the noble Lord will note that the UK has the third-largest aviation network in the world after the USA and China. London serves 360 destinations, in comparison to Paris at around 300 destinations and Frankfurt at 250.

Lord Bradshaw (LD): As regards the information that we have had today about climate change, will the Minister update the House on what progress is being made to improve the ground connections, specifically the rail connections, from Heathrow, which matter whether or not we have a third runway there?

Baroness Kramer: My Lords, we expect the commission's recommendation to be consistent with our plans to cope with climate change, but the noble Lord will of course be aware that the commission, among others, reported into HM Treasury's national infrastructure plan, which was published on 4 December. That recommended quite a number of enhancements for rail access. As a consequence of that, work will be done to provide rail access at Heathrow from the south. More is being spoken about that today as part of the announcement of how Network Rail will spend £38 billion that has been provided. Indeed, further enhancements to surface access for Gatwick and Stansted are in that national infrastructure plan.

Lord Clinton-Davis (Lab): The Minister is complacent. Does she realise that while we delay, Frankfurt, Schiphol and Paris are all thriving and expanding? Meanwhile, the main sufferers will be British Airways and British aviation. Is it not time for an altered Heathrow to provide the obvious choice for expansion? In that way, British airlines will expand with it.

Baroness Kramer: My Lords, as the House will know, the Davies commission is looking precisely at the capacity issue in the south-east and will recommend what it considers to be the best way to respond to it. That report will come in 2015. The Government of the day will then decide how to respond to the report. Given the quality and quantity of the work, it would be wrong to pre-empt that decision.

Lord Stoddart of Swindon (Ind Lab): My Lords, I congratulate the Government on their decision to extend Crossrail to Reading after much representation by the local authority, residents and indeed Members of Parliament. Will the Minister confirm that that will provide after 2019 a direct link to Heathrow, which will serve well not only Reading but the many other places that can be reached from Reading? I declare an interest as I live there.

Baroness Kramer: The link from the west is crucially important. More was said again today in the announcement about Network Rail and we are always delighted to hear congratulations.

Lord Davies of Oldham (Lab): We all know that the Government congratulate themselves on having kicked into the long grass the crucial issues of what to do about an additional runway in the south-east. But Sir Howard Davies produced an interim report in

[Lord Davies of Oldham]
2013, which had some constructive suggestions. I cannot for the life of me understand why the Government are similarly inert about those issues. For instance, one of his recommendations was that we should establish an ombudsman to identify the irritation, difficulties and problems associated with noise at Heathrow. Why on earth do the Government not act on that? After all, we know that the big problem with regard to the location of the additional runway is people's anxiety about noise.

Baroness Kramer: The noble Lord is right that there are many interesting suggestions in the interim report. The Government will respond to that shortly, but they are substantial recommendations that deserve a great deal of consideration before we come to a conclusion. As I said, we will respond shortly, but unfortunately I am not in a position to do that today.

Baroness Tonge (Ind LD): My Lords, will the Minister accept that the present method of measuring the noise of aircraft coming in and out of Heathrow is seriously deficient? In fact, the lowest levels disturb residents far more than anyone can imagine. Will she say what plans the Government have to revise how they measure noise levels from aircraft, following the noble Lord's question earlier?

Baroness Kramer: The issue of noise, as people will understand, is a contentious one that has been addressed in a number of ways in the interim report presented by the Davies commission. Our response to that noise issue will be part of our response to the overall interim report.

The Lord Bishop of Birmingham: My Lords, will the Minister take note of the increased capacity of regional airports in this country—for example, the extended runway at Birmingham? Will she encourage airline users and businesses to use these airports not only for the convenience of British travellers but also for the increased capacity and enjoyment of visitors to this country?

Baroness Kramer: My Lords, it is indeed true that regional airports play a very important role. That has been widely recognised in the *Aviation Policy Framework* published by the Government last March. It is also true that Birmingham is expanding its runway; there are other upgrades of various kinds at both Bristol and Southend; and Manchester Airport is playing a very important role with its airport city enterprise zone development project. I recommend those airports strongly to anyone considering travelling.

Armed Forces: Biofuels

Question

2.46 pm

Asked by ***Lord Soley***

To ask Her Majesty's Government whether they intend to increase the use of biofuels by the armed forces.

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): My Lords, the Ministry of Defence uses biofuels for road transport where EU legislation obliges manufacturers to include a percentage of biofuels in the fuel they produce. The use of biofuels for marine and aviation use is governed by the requirements and approvals of the department's equipment manufacturers. The Ministry of Defence is encouraging these manufacturers to work towards adopting biofuels in the future.

Lord Soley (Lab): Will the Minister put this on his agenda and take it forward? Is he aware that by 2020 the United States navy will be using ships and aircraft that use some 50% biofuels? These are not from farm produce; they are from algae and other fuels. The US air force is flying F18 high-performance jets on 50% biofuels. The Italians and the Dutch are using it, so will he—particularly on this day, bearing in mind the United Nations report—go back to his department and say, "We ought to be up there with them using biofuels in ships, planes and ground transport"? Will he also take that matter to NATO and, preferably, keep the House informed of his progress?

Lord Astor of Hever: My Lords, we are aware that the United States and the other countries mentioned by the noble Lord are experimenting with biofuels in their naval vessels and aircraft. The results of the performance of the fuels are being shared through equipment manufacturers and international forums such as the Air and Space Interoperability Council. The defence equipment and support fuel team regularly engages with manufacturers to understand the most recent research and how this might apply to the MoD's fuel requirements in the future. Biofuels, however, are not the only answer, and the MoD will use the most appropriate solution available to reduce fossil fuel consumption, whether that is through using alternative technology or equipment, reducing activity levels, using alternative fuels or interoperability with our allies.

Lord Trefgarne (Con): My Lords, is there not more than one respectable view as to the desirability of biofuels, given the extensive agricultural facilities required to produce them?

Lord Astor of Hever: My Lords, I am aware of the concerns about biofuels competing with food production but, as I said in my opening response, the MoD uses biofuels for road transport where EU regulations oblige fuel manufacturers to include them, and only for that.

Lord Rooker (Lab): Does the Minister accept that most innovation in this country relating to fuels and materials starts from the motorsport industry? Have the Armed Forces picked up any tips from that thriving industry?

Lord Astor of Hever: My Lords, I am delighted that the noble Lord asked that question. I assure him that we are working very closely with the motorsport industry, which—as the noble Lord knows better than most—is expert in lightweighting and energy-efficient use of fuel. All Formula 1 engines have advanced energy recovery systems that reduce their fuel capacity by 40% and reduce their engine size, too, but must deliver

the same power output. Race cars recover and store significantly increased energy from braking and from their turbochargers.

Lord Palmer of Childs Hill (LD): My Lords, they are using more biofuels in the United States, particularly in the Sikorsky Blackhawk helicopter and—as the noble Lord, Lord Soley, said—in the navy's farm-to-fleet project. That has had a significant effect on the change of use from food crops to biofuels. Taking a slightly different line from other questions, will the Minister tell the House that the Army, Navy and Air Force will look closely into the development of biofuels and how it affects the reduction of food production in the UK?

Lord Astor of Hever: My Lords, I stand by my response to my noble friend earlier. As I said, this is for use only where UK regulations oblige fuel manufacturers to include them. As that use is both limited and obligatory, the MoD has no plans to conduct any form of appraisal.

Lord West of Spithead (Lab): My Lords, the noble Lord must agree that we have solved some of these fuel problems by having fewer and fewer ships and fewer and fewer aircraft. I looked historically at the 1950s—I needed to for a certain reason—and, on average, every year we commissioned between 15 and 20 warships. How many ships were commissioned in the latest financial year?

Lord Astor of Hever: My Lords, the noble Lord is using his imagination to try to tempt me to discuss the number of ships. This Question is about biofuels.

Lord Elton (Con): My Lords, in replying to two supplementary questions, my noble friend relied on the effects of biofuel cultivation on agriculture but surely another major, and possibly longer-term, anxiety is the destruction of forestry, particularly in South America, which is reducing a diminishing resource that is a means of absorbing excess carbon in the atmosphere.

Lord Astor of Hever: My Lords, I am well aware of the concerns for both agriculture and forests. As I said earlier, the Ministry of Defence is such a small user of biofuels that I would rather not get into this debate.

The Countess of Mar (CB): My Lords, I understand that there is a second generation sort of biofuel that does not use food and food products but is generated from bacteria, using waste materials. How much of this biofuel is used in Ministry of Defence operations?

Lord Astor of Hever: My Lords, I cannot answer that question but I refer to a Question asked by the noble Baroness, Lady Worthington, last year. When the noble Lord, Lord Soley, asked a supplementary question about this, my noble friend replied that these are termed "advanced biofuels", which I think relates to the question of the noble Countess. They, "do not have a land-take impact—certainly not in terms of taking land out of agricultural use or requiring a reduction in rainforest. Moreover, they do not have an impact on food production. Consideration is being given to greater incentives for the production of advanced biofuels".—[*Official Report*, 27/3/13; col. 1077.]

Film Industry

Question

2.53 pm

Asked by ***Baroness Eaton***

To ask Her Majesty's Government what steps they are taking to support and expand the British film industry.

Lord Gardiner of Kimble (Con): My Lords, the Government are committed to encouraging film production through public funding and some of the most generous creative tax reliefs in the world. Skills development and measures to introduce larger audiences to the widest possible range of films are helping to nurture the next generation of film-makers and viewers, so that the UK film and allied industries, which generate nearly 117,000 jobs and contribute £4.6 billion to national GDP, continue to prosper.

Baroness Eaton (Con): Coming from Bradford, I am delighted that film in the UK is thriving and is one of the main drivers for growth in the economy. What are Her Majesty's Government doing to encourage skills development and training in the film industry?

Lord Gardiner of Kimble: My Lords, I should first congratulate Bradford on being recognised as the world's first UNESCO City of Film. Skills for digital and creative industries are vital, which is why the Government have increased their match funding of the skills development fund and are investing in the National Film and Television School's digital village. The BFI has launched Creative England, its new talent workshop, and the industry is also engaged with apprenticeships and the BAFTA scholarships.

Baroness McIntosh of Hudnall (Lab): My Lords, is the noble Lord aware that the National Theatre has recently pulled off a considerable coup in tempting Tessa Ross from Film4 to join the National Theatre as chief executive? Jolly good for them, not so good for the film industry—but never mind. What it demonstrates is that there is a high degree of interdependency between the film industry and theatre in particular, with a number of very successful practitioners—directors, actors and screenwriters—coming initially from the theatre. Does he therefore accept that the health of the film industry depends to a significant extent on the health of the theatre?

Lord Gardiner of Kimble: My Lords, I think that I would go further and say that the creative industries generally are all part of the scene we have for film and the allied industries: technicians, theatre—I am very pleased with the tax reliefs for regional theatre now,

[Lord Gardiner of Kimble]
for instance, in the Budget—high-end TV and animation. All of those should be seen as a whole, because the creative industries are an essential part of our national economy.

Baroness Bonham-Carter of Yarnbury (LD): Following on from the noble Baroness's question, does my noble friend agree that at the heart of the success of the British film industry are public service broadcasting television channels—from which Tessa Ross comes, of course—and that the continuing existence of Channel 4 and the BBC, funded as they are today and with their respected remits and models, is central to the continuing success of our British film industry?

Lord Gardiner of Kimble: My Lords, the key feature, and why it has been such a successful sector, is the mix of both commercial and public sector broadcasters. I had a meeting last week with Channel 4. I was very impressed with its encouraging of apprenticeships with 4Talent and, indeed, with the BBC and its apprenticeship schemes. All of this is part of a mix in this sector, all of which is vital for our prosperity.

Lord Stevenson of Balmacara (Lab): My Lords, I declare an interest as a former director of the British Film Institute. Given that the BFI cannot use lottery funds for its own activities, how does the Minister square what he has just said about the British film industry and support that the BFI gives with the recent 10% cut in the BFI's budget, when other arts bodies are absorbing only a 5% cut?

Lord Gardiner of Kimble: My Lords, the reduction that the noble Lord mentioned is actually in line with the average across government. However, in terms of the BFI and what it is doing, I think it is an example of perhaps doing very well with a little less. In addition, the BFI Player, with a further investment, is all part of the advances in innovation. Certainly the initiatives that BFI is undertaking are very interesting and will help enormously to widen audiences.

Lord Dobbs (Con): Is my noble friend aware that no Hollywood awards ceremony proceeds nowadays without accolades being showered on British films such as "Gravity", "12 Years a Slave", "Philomena" and, of course, the everlasting "Downton Abbey" and its ever youthful creator? Sadly, he is not in his place today—he is probably off doing something creative. Is my noble friend aware that American audiences greeted with shock the news that the all-action hero of "Homeland" was not American but, indeed, English—Damian Lewis, who is not only British but educated at Eton. At the risk of encouraging my noble friend to appear something of a luvvie, which of course I would not wish to do, can he think of any reason why this whole exercise should not be regarded as a great British success story?

Lord Gardiner of Kimble: My Lords, perhaps I should include my noble friend in the list of accolades. I can do no better than refer to the president of Warner Brothers UK, who recently described Britain as in the centre of a "new golden age" of film. It is interesting that Warner Brothers is investing £100 million in creating new studios at Leavesden.

Lord Foulkes of Cumnock (Lab): On this Lord's day, it is a privilege to follow a reluctant hero in this House of cards—I have read them all, as well. Seriously, has the Minister had discussions with his Scottish counterpart about setting up a new film studio in Scotland, which is long overdue?

Lord Gardiner of Kimble: My Lords, I have not had direct discussions, but I understand that Creative England, which is funded by the BFI, is working with creative elements in all parts of the kingdom on that. I can also say that the British Film Commission, also funded by the BFI, is looking at places where international productions can invest. I know of a studio opening in west Wales, for instance, and I will look into what might be happening in Scotland.

The Earl of Sandwich (CB): The Minister mentioned the BFI at some length and online training, but I do not think that he mentioned film schools. Is anything being done to support film schools, because the United States is rather ahead of us in that? I declare an interest: my son was a director of the film school in Ealing Studios.

Lord Gardiner of Kimble: As I mentioned, BAFTA is undertaking some scholarships and actors are working with people who want to get into the industry. I will look into the question of film schools. I know that it is now very much less expensive to have a film made in this country than it is in America.

Housing
Question

3.01 pm

Asked by ***Baroness Browning***

To ask Her Majesty's Government what measures they are taking to increase the supply of housing.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Stowell of Beeston) (Con): My Lords, this Government are getting Britain building again. Housing construction is at its highest level since 2008. Affordable homes will soon be delivered at the fastest rate for more than 20 years and our latest Budget measures, which include extending the Help to Buy equity loan scheme, supporting a garden city at Ebbsfleet and providing a £525 million fund to support SME builders to get going on smaller sites, will support more than 200,000 more new homes.

Baroness Browning (Con): As well as Help to Buy, will my noble friend confirm that the Government will continue to promote the right to buy, which has been

so successful in helping people in social housing to become homeowners? The shadow housing Minister, Jack Dromey, told last year's Labour Party conference:

"I was one of those in the 1980s who led the charge against the right to buy. We were half way across the field of battle we looked over our shoulder and there was no",

one,

"behind us—there were 1.5 million housing tenants who bought their homes".

Does my noble friend agree with him?

Baroness Stowell of Beeston: I certainly welcome the conversion of the shadow housing Minister to supporting the right to buy. I wish only that he would speak to his Labour colleagues who are in government in Wales as they seem to be doing everything they can over in Wales to prevent people exercising their right to buy. The contrast here in England is stark. I can reassure my noble friend that it is very much an important part of our housing strategy. We have increased the discounts available to those who wish to exercise their right and our commitment to replace the additional homes sold under our reinvigorated scheme will mean that even more people will have the same opportunity in future.

Lord McKenzie of Luton (Lab): My Lords, I think that Jack Dromey is the former shadow housing Minister. Last year, the Government built the lowest number of genuine social homes for more than 20 years. We know that the Mayor of London has banned Labour councils from insisting on the building of genuine social homes through Section 106 agreements in his London plan—this against the guidance of the planning inspector. Indeed, we believe that he has just announced that at the dockyards at Deptford they are planning for 3,500 luxury flats—not a single affordable home, unless you are a millionaire, of course. Does the Minister seriously support that approach?

Baroness Stowell of Beeston: It is a shame that Jack Dromey is the former shadow housing Minister, because he very much supported our policy—talking about it as a policy of aspiration. On social housing, I say to the noble Lord that more council housing has been built under this Government than in all the 13 years of the previous Labour Government.

Baroness Grender (LD): Does the Minister agree that it is most welcome news in the Budget that we now have a new garden city being built for the first time in a generation? Can she share with us the lessons learnt from the first and failed attempt to build Ebbsfleet when it was commissioned by the noble Lord, Lord Prescott, in 2003, and can she widen that lesson for us and explain how it can be applied to ensure that we do not have to wait for another generation before the next one?

Baroness Stowell of Beeston: The key lesson to be learnt from the previous Labour Government is that they set targets and tried to impose new towns and cities but ended up building nothing but resentment, whereas this Government support locally led developments. We will be publishing our garden cities prospectus soon so that locally led proposals and plans can come forward.

Baroness Greengross (CB): My Lords, given the removal of the housing borrowing cap, which I support as a vice-president of the Local Government Association and which is supported by a large number of housing stakeholders, and the Deregulation Bill, which has clauses in it that will increase eligibility for the right to buy, I hope the Minister will agree with me that it is more important than ever that receipts from houses sold under the right to buy are recycled into replacement homes, and that replacement homes include designed homes that are convenient for the ageing population, which we all know about, so that those homes will be freed up for young people, who have a huge need for new homes.

Baroness Stowell of Beeston: I can certainly say to the noble Baroness that our policy is clear that the money raised from right-to-buy sales should be used to provide newer affordable houses for rent. As for providing housing that is tailored very much to the older generation, we certainly encourage local authorities in producing their local plans to be clear about the needs of their local population and to make sure that there are provisions in those plans for older people as well.

Lord Campbell-Savours (Lab): Although it is true to say that the right-to-buy policy has been a success in some parts of the United Kingdom, is it not also true that it has been an absolute disaster in London, where people were able to buy their flats for £50,000, £60,000 or £70,000? Those former council flats are now on the market in London at £600,000 and £700,000 and very often the people who bought them have put them back on the market and sub-let them at exorbitant rents of £400 and £500 a week. What has happened to council housing in London is a scandal.

Baroness Stowell of Beeston: The most important thing that we need to do for housing right across the board is to increase supply. We are certainly increasing the amount of affordable housing. I might say to the noble Lord that we have built more than 170,000 new affordable homes since 2010, and two of the top five areas of the UK benefiting from this were in Tower Hamlets and Hackney.

Domestic Renewable Heat Incentive Scheme Regulations 2014

Motion to Approve

3.08 pm

Moved by ***Baroness Verma***

That the draft regulations laid before the House on 11 February be approved.

Relevant document: 23rd Report from the Joint Committee on Statutory Instrument, considered in Grand Committee on 26 March.

Motion agreed.

Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014

Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014

Copyright (Regulation of Relevant Licensing Bodies) Regulations 2014

Motions to Approve

3.08 pm

Moved by ***Viscount Younger of Leckie***

That the draft orders and regulations laid before the House on 3 March be approved.

Relevant document: 23rd Report from the Joint Committee on Statutory Instruments, considered in Grand Committee on 26 March.

Motions agreed.

Water Bill

Report (2nd Day)

Relevant documents: 20th, 22nd, 23rd and 24th Reports from the Delegated Powers Committee.

3.09 pm

Amendment 88ZA

Moved by ***Lord Whitty***

88ZA: After Clause 50, insert the following new Clause—

"Onshore oil or gas activities: effect on water environment

In Part 1 of Schedule 5 to the Environmental Permitting (England and Wales) Regulations 2010 (environmental permits) after paragraph 13 there is inserted—

"Onshore oil or gas activities: effect on water environment

13A. Without prejudice to the operation of regulation 35(2) and paragraph 5(1)(d) of Schedule 10 and of regulation 35(2) and paragraph 7(j) of Schedule 20, the regulator shall refuse an application for the grant or variation of an environmental permit or for the transfer in whole or in part of an environmental permit if—

(a) the regulated facility to which the application for, or transfer of, the environmental permit relates is to be carried on as part of an onshore oil or gas activity; and

(b) the regulator is not satisfied that the applicant or the proposed transferee has made or will make adequate financial provision for preventing or mitigating pollution of the water environment, by ensuring all of the following—

(i) operation of the regulated facility in accordance with the environmental permit;

(ii) compliance with any enforcement notice or suspension notice or prohibition notice or mining waste facility closure notice or landfill closure notice which may be served on the applicant or transferee by the regulator under these regulations;

(iii) compliance with any order of the High Court which may be obtained against the applicant or transferee under regulation 42 for the purpose of securing compliance with any of the notices listed in sub-paragraph (ii);

(iv) compliance with any order of any court issued under regulation 44 against the applicant or transferee; and

(v) recovery by the regulator of its costs upon any exercise of its power against the applicant or transferee under regulation 57;

(c) for the purpose of this paragraph "onshore oil or gas activity" means any activity for the purpose of exploration for or extraction of onshore oil and gas;

(d) for the purpose of this paragraph "adequate provision by way of financial security" means financial provision which is sufficient in value, secure and available when required.""

Lord Whitty (Lab): My Lords, this subject may be familiar to the cognoscenti because it has been before this House in Committee and was discussed in the Commons. I am bringing the amendment back because it is an issue that the Government will have to face up to at some point, whether in this Bill or elsewhere, and the sooner the better. It concerns the effect on water supply and water quality of fracking for shale gas or oil.

I have been looking at earlier debates on similar amendments, and the Government's responses here and in another place seem to reflect that they have assumed that this is an anti-fracking amendment. It is not. Indeed, it assumes that there will be significant development of shale gas over the next period, and that such development will eventually and inevitably use significant amounts of water, and may have detrimental effects on the quality of water and ecosystems if not effectively regulated. It makes no judgment on the broader issue of shale gas and fracking and its effect on overall energy strategy. We could have a debate on energy strategy today; if noble Lords want my view, it is that while there will be a significant development of shale gas in the UK and in Europe, it is unlikely to result in the kind of transformation in prices, energy supply and energy mix that we have seen in the United States. In terms of its effect on climate change and the carbon market, it rather depends. If shale gas leads to a faster reduction in the use of coal and oil for generations, then it will be positive. If it slows down the adoption of nuclear and renewable technologies, it will be negative.

Either way, there are concerns about the immediate environmental and resource effects of fracking processes—primarily, and in the context of this Bill, in relation to water. These effects occur in three broad ways. The first is the possible pollution of water systems and aquifers by chemicals that are released in the fracking process, and the release of methane. Secondly, there is the substantial effect on the level of abstractions and supplies of water needed in the fracking process itself. Fracking companies will need huge supplies of water—clean water, rather than direct abstraction—and that will have an effect on the levels of water resources available, sometimes in our most overstretched river catchment areas. That will therefore have an effect on total supplies and indeed on the cost of water. Thirdly,

there are the effects of the operation of cleansing the water that is used in the fracking process prior to its re-entry into the water system, and its effect on the robustness and the operation of water treatment plants. On all three fronts, things can go wrong, and it certainly means that there are significant changes in both the water catchment structure and in availability and on the delivery of clean water.

I am not scaremongering. It is perfectly possible to regulate the fracking process to minimise pollution and to avoid drastic damage. It is possible to license the use of water and the supply of water resources so as to avoid any major curtailment of overall supplies. However, it is also true that the effects will not be contained by regulation operation by operation, and that there will be aggregate effects and potentially significant damage to ecosystems and detriment to the water systems over time. The amendment would recognise that and would try to ensure that the fracking operators, as a condition of their licence, made provision for possible future damage to the water supply system and the costs of clean-up. History shows us the necessity for this. Previous generations of different forms of energy sources—coal and nuclear, for example—show that substantial potential damage was done to the environment, in terms of subsidence or whatever, to the landscape and to public health but that liabilities or potential liabilities were not met by the entity actually doing the damage, whether that was the state in the nationalised period or the private owners of coal mines. The cost has in effect been met by taxpayers.

3.15 pm

Likewise, with nuclear in the early stages there was no provision for operators to cover the cost of decommissioning, disposal of nuclear waste or any potential damage and health hazards caused by it. It is true that for the future development of nuclear plants in this country there will be such provision and those liabilities will be covered. This amendment would make sure that we did not repeat those same mistakes in relation to the new source of gas and oil—the shale gas and shale oil produced via fracking. If there is to be a widespread take-up of fracking, it is important that we make such a provision and that we make it mandatory. The liability must rest with the entity that has caused the damage. That is the purport of this amendment. The Government are going to have to face up to this at some point and since we are dealing with water here, which is a major dimension of the issue, I think it is relevant to this Bill. If the Government do not consider that to be the case then they need to tell us when and where they are going to legislate and regulate to meet this point. I repeat: this is not an anti or pro-fracking amendment; it is one to deal with the long-term consequences. I hope the Government will see that. I beg to move.

Lord Cameron of Dillington (CB): My Lords, I strongly support this amendment. Indeed, I strongly support the fracking industry. We need to pursue all possible energy options at a time of high-energy costs and uncertain energy sources. The crisis in Ukraine is perhaps a sharp reminder of Europe's unwise overreliance on Russian gas. Furthermore, when visiting Brussels to investigate EU energy policy it was made clear to us on Sub-Committee D last year—or perhaps the year before; I forget—that the EU was looking very closely to us, the admired and well respected Brits, to show the proper way for fracking to be done so that others within the EU could copy us. By the proper way I mean taking into account all the necessary environmental safeguards as are inherent in this amendment. So my first point is that Europe is watching us and that what we do could set a precedent for other EU countries, such as Poland.

My second point is that that we have to bring the public with us on fracking. In this context it is important to remember that a fracking borehole or well produces 85% of its deliverable gas within the first 12 months after it has been drilled. So if we are going to have a sustainable and long-term gas industry from fracking, then we will need to have a large number of holes or wells drilled over the coming decades. I made the point at Second Reading that in order to do this the public have to have absolute faith that the companies involved will clear up any mess that they make as opposed to the taxpayer clearing it up or, worse still, the mess being left to the locals to sort out. I am sure that the chances of any mess being made are very limited, so any insurance or bond necessary will not be particularly costly, but for the sake of the fracking industry across Europe it really must be done.

Lord Shipley (LD): My Lords, on the face of it this seems a reasonable amendment and I agree with much of what has been said in the two contributions so far. The issue is actually a very specific one around the financial resilience of companies engaged in fracking. Some of these companies may be small and as a consequence of that it is very important that their financial resilience is clearly demonstrated. We already have onshore drilling in the United Kingdom so the question is whether existing regulations impacting on those operations suffice in the case of the introduction of horizontal fracturing or shale gas.

I seek the Minister's confirmation that the Department of Energy and Climate Change already requires operators to have the financial resources to meet any liabilities, including prevention of contamination. I think that in Committee we were informed that a fund was to be created to guarantee financial sufficiency and long-term cover in the event that a company ceases trading. We have to be clear what problem this amendment seeks to solve, partly because the UK regulatory system seems to be much stronger than the regulatory system in the United States, although the US environment has been made much more robust in recent years.

I understand that our regulations are already very tough and the use of hazardous chemicals is not permitted. Can the Minister confirm this and that the statement made in Committee that the regulatory framework would be further enhanced would meet any concern that this amendment addresses?

There are three issues around water. First, there is the composition of the fracturing liquid. I understand that it already requires the approval of the Environment Agency. Can the Minister confirm that? Secondly, there are ways in which water can be contaminated.

[LORD SHIPLEY]
There is ground-water contamination by hydraulic fracturing, not least from poor-quality well casing. Anything that leaks out might contaminate ground-water if it can rise to the point where the ground-water is. Methane might rise into ground-water from lower down as a consequence of hydraulic fracturing. Thirdly, there is wastewater. I understand that even at the high end of shale gas extraction, it would amount to only 3% of the annual wastewater rate because extraction industries and others produce wastewater. Are the existing regulatory requirements around the handling of wastewater sufficient?

The critical element this amendment relates to is the financial resilience of the companies. Almost certainly, a number of companies that undertake shale gas fracking in the foreseeable future might not be in existence in, say, 30 years. What will be done to create a fund through pooling to enable that financial resilience to be demonstrated?

Baroness Parminter (LD): My Lords, ensuring we have the right regulatory framework and the financial means to deal with the potential environmental impacts of fracking are important issues and therefore I most sincerely thank the noble Lord, Lord Whitty, for raising this matter again.

In Committee, the Minister outlined the steps being taken to address the low- probability, but high-risk, scenario of a pollution incident. My noble friend Lord Shipley referred to the Minister's response, which was that the Government and the industry are looking to put a scheme in place, and I am sure that we all look forward to hearing further news about that in the Minister's remarks this afternoon.

We need tight regulation of fracking by the Environment Agency, the HSE and local planning authorities, but of all the impacts of fracking, not just the impacts resulting from increased pressure on water supplies or their potential contamination. In Committee, the Minister confirmed that the regulatory framework will be,

"reviewed and refined as appropriate as we move towards the production phase".—[*Official Report*, 11/2/14; col. 543.]

We need a holistic view of the environmental impacts of fracking, not just of its impacts on water supplies, important though they are, and I therefore cannot support this amendment. I certainly hope the Minister will give assurances that there will be full parliamentary scrutiny of any proposed changes to the existing regulatory framework for fracking.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord De Mauley) (Con): My Lords, Amendment 88ZA, which was moved by the noble Lord, Lord Whitty, would require onshore oil and gas operators to provide financial security when applying for an environmental permit so that funds would be available to deal with any water pollution incidents caused by the operator. The amendment relates to both the conventional and so-called unconventional, or alternative, oil and gas sectors. It would address any pollution that an operator might cause to the water environment but not, I stress, any other damage that might be caused by their activities. The same amendment was raised in Committee by the noble Lord, Lord Whitty, and was withdrawn in the light of information that I provided on our plans to address any wider environmental risks by developing a scheme to ensure that the polluter will be liable in the event of a pollution incident and that there will be sufficient funds available to cover the costs.

I reiterate that the proposed amendment would also apply to, and have implications for, our well established UK conventional onshore oil and gas industry, an industry which, over many years, has maintained a good record of environmental responsibility and competence that has enabled it to co-exist with, and provide employment for, many. Our existing regulatory framework and the application of good operational practice have served us well to prevent pollution from onshore oil and gas activities and to tackle any problems that emerge in an appropriate way. These same controls will provide the basis for the regulatory framework for any new developments in the oil and gas sector to ensure that the environment continues to be appropriately protected. I shall come back to that in a moment.

As part of the licensing process, and prior to awarding a licence, the Department of Energy and Climate Change assesses whether a company has sufficient funding for its planned operations. DECC also checks at the drilling and, where relevant, production stage that the company has appropriate insurance. Similar financial competence checks are carried out by the Environment Agency as part of the permitting process. In this way, we ensure that the companies have the necessary resources needed to back their operations.

Our regulatory framework is underpinned by a robust range of enforcement powers, which are available to the Environment Agency. This includes powers under the Environmental Damage (Prevention and Remediation) Regulations 2009, which in the event of serious damage to surface waters or ground-water will enable it to require the polluter to pay to clear up the pollution. Ultimately, if a significant environmental risk becomes apparent, the Environment Agency has the authority to stop the activity. These powers apply to a wide range of activities undertaken by different industries, so I do not think that it would be justified to create any specific provisions for the onshore oil and gas industry.

However, the Government are very aware of the public's concerns about the capacity of companies exploring for shale gas to address any liabilities that may arise. As I mentioned in Committee, this issue is being looked at as part of a wider review. DECC and the shale gas industry are working together to put in place a robust scheme that would cover environmental liabilities, even if the relevant operator is no longer in business. They are discussing with leading insurers to build expertise and capacity in the insurance market. The aim is to facilitate the development of products appropriate for shale gas and similar operations, which, in turn, could facilitate the development of an industry-wide scheme. As I explained, these discussions will take time, as we need to ensure that we get this right first time.

The amendment proposed by the noble Lord, Lord Whitty, is quite specific, but perhaps I could just talk more broadly for a moment. As I have just mentioned, and noble Lords have mentioned in their speeches, there are understandable concerns about this whole area of exploration and production. The noble Lord, Lord Cameron, referred to the need to bring the public with us—and he is absolutely right. The Government are clear that we must take all appropriate measures to ensure human safety and protection of the environment. The United Kingdom has more than 50 years' experience of regulating the onshore oil and gas industry, and we have a robust regulatory system in place to ensure that operations are carried out to high standards of safety and environmental protection.

I can assure noble Lords that the Government will allow production of shale gas to proceed only where it can be done without compromising human health or the environment. We are therefore undertaking a very careful assessment of our existing policy and regulatory framework to ensure that it is fit for purpose, as we move towards the production phase. It is not just about fracking—a process used to extract oil and gas from rock—which has been safely employed in the United Kingdom and elsewhere for many years.

Any changes to regulations that we believe are necessary following this consideration would of course be subject to parliamentary scrutiny. Parliament is also using its other mechanisms of scrutiny, including the significant inquiry into the potential impacts of shale gas being conducted by your Lordships' Committee on Economic Affairs, which I understand is due to report soon and whose conclusions we will of course consider carefully. A couple of weeks ago, on 17 March, my noble friend Lady Verma spoke for the Government in a short debate on shale gas initiated by my noble friend Lord Borwick. Noble Lords may wish to note also that this debate is occurring simultaneously at EU level, as the noble Lord, Lord Cameron, said, and that debate will reach its own conclusions in due course.

3.30 pm

We are reviewing and refining the regulatory framework as we move towards the production phase. We are looking to do that in the most effective way, without diluting environmental standards. The review will look at all environmental liabilities in relation to shale gas and not just those relating to water. These initiatives, taken together, constitute a sensible and pragmatic approach towards ensuring that environmental liabilities are covered in a proportionate way and allow for a better approach to amending legislation.

To answer a question from the noble Lord, Lord Whitty, if operators want to extract water directly from local water sources for operational purposes and that exceeds 20 cubic metres a day, they would need a water abstraction licence from the Environment Agency. A licence would be granted only if the quantities proposed for abstraction can be taken in a way that does not harm the environment or the interests of other water users. During dry spells and droughts the supply available for fracking operations may be restricted.

My noble friend Lord Shipley asked how fracking wastewater would be disposed of. Flow-back fluid can either be treated and reused on site or taken to a permitted wastewater treatment works. Any treated water leaving the wastewater treatment works will have to comply with that works' environmental permits, which ensure protection of local people and the environment.

The noble Lord also asked whether the Environment Agency has to approve all fracking fluids. All substances used as fracking fluids must be approved for use by the Environment Agency. He asked about the risk of shale gas wells leaking pollution into ground-water. Shale gas wells must be designed, built and operated to standards set in the regulations governed by HSE. Operations are also subject to safety regulation enforced by the HSE and require consent from DECC before drilling or production activities can commence.

I urge the noble Lord to withdraw his amendment in the knowledge that there are effective measures in place already to address the concerns behind his amendment so far as current operations are concerned and that we remain committed to addressing any remaining concerns about longer-term assurance in an appropriate way.

Lord Whitty: I thank the Minister for that detailed reply. I thank the noble Lord, Lord Cameron, for his support and the noble Baroness, Lady Parminter, and the noble Lord, Lord Shipley, for their interventions. I accept that it is slightly odd to put this in the Bill. However, water is a big part of the fracking operation and fracking has a significant effect on water. In all that the Minister said, he did not say when he would come forward with the kind of structures that he promised in the previous debate and which are underlined now.

I recognise that one cannot differentiate in relation to conventional oil and gas operations onshore. We have had plenty of those in this country; we operated onshore oil extraction in Dorset for decades. One cannot differentiate in terms of the relative regulations.

I accept, too, that the issue is wider than that of water. However, somewhere we need to see the Government make progress in creating the arrangements that the Minister has now twice referred to—namely, an obligation to ensure financial resilience and possibly the creation of separate funds to ensure that they could meet the effects of clean-up. I am sure that the Minister is right that this requires substantial consultation. I certainly agree that ideally we should consider the effect of fracking holistically on all environmental issues across the board, as the noble Baroness, Lady Parminter, said.

I hope the noble Lord is right that we can move fairly rapidly on this as a large number of relatively small-scale operations could arise in a lot of locations. In view of the damage that could be caused, one has to question the ability of the regulatory authorities to enforce standards on all those operations at all times. The care that the operators will exercise will be proportionate to their financial stake in the operation and their bottom line. Therefore, it is important that they make financial provision to cover that before these operations reach scale. That is what this amendment is about. I accept that it is not entirely appropriate, but I think the Government have accepted that something

[LORD WHITTY]
needs to be done in this regard and I hope that they will introduce an appropriate measure in legislation or regulation as soon as possible.

In the mean time, I beg leave to withdraw the amendment.

Amendment 88ZA withdrawn.

Clause 51: The Flood Reinsurance Scheme

Amendment 88A

Moved by ***Baroness Northover***

88A: Clause 51, page 108, line 2, leave out "relating to flooding" and insert "arising from a flood"

Baroness Northover (LD): My Lords, in moving government Amendment 88A, I wish to speak also to the rest of the government amendments in the group.

This group of amendments includes the government response to the Delegated Powers Committee on the flood insurance clauses. There are also a few minor changes, including some further transitional measures, to improve the Bill.

The first set of these amendments—Amendment 88D and Amendments 90C to 90G—is in response to the Delegated Powers Committee's recommendations on the flood insurance measures. The Government take these points very seriously and have tabled amendments to take them into account. This includes using the affirmative resolution procedure for all regulations and placing some of the definitions in the Bill. Following the committee's report on the amendments, we nevertheless take the view that Clauses 58 and 61 should remain affirmative on the first exercise only. The amendments also provide for some of the definitions to be amended by regulations.

We agree with the committee that the definitions are important and we take its point about defining them in the Bill. However, we remain of the view that the definitions of "flood", "household premises" and "relevant insurer" are best set out in regulations, which are more flexible, should we need to change them over the lifetime of the measures. We hope that, by defining these terms in regulations that will be subject to the affirmative procedure, we have reassured noble Lords of our intention that Parliament is able to scrutinise these definitions fully in due course.

We thank the committee for recommending that the powers to share information on council tax data are subject to the affirmative procedure. However, to meet the commitment to establish Flood Re in 2015, we need to release the information immediately after Royal Assent, and have therefore decided to address the committee's concerns by placing the powers in the Bill to ensure that Parliament can scrutinise them now. We hope that noble Lords understand the rationale for this, due to the challenging timetable to deliver Flood Re.

Although Amendments 90CA to 90CD provide for rather than mandate the release of council tax data in the Bill, I should make it clear that the Government are committed to doing so, and to do so swiftly following Royal Assent.

Insurers will be required to have in place appropriate but proportionate security measures for the protection of the data disclosed pursuant to this clause. As much of the data to be disclosed at this stage are already in the public domain, it has been agreed that the controls are sufficiently robust for additional criminal sanctions not to be required. However, the amendment also allows for the application of a criminal sanction at a later stage, should the Government need to regulate for the release of additional information. It is right that we have the powers to protect the release of further information in future, but the criminal sanction is not automatic and we will consider whether one is necessary, following consultation.

On Amendment 90A on Flood Re's reserves, we have previously discussed amendments to the rules surrounding the scheme's reserves, and will come on to discuss reserves later in this debate. Having consulted further, and to ensure that this power in Clause 53 cannot compromise the sound operation of Flood Re and its orderly management, we are tabling this small change to make clear that the scheme administrator's consent is sought before making regulations in this area. This consent means that the scheme administrator is able to object to any prudentially unsound proposals, as well as make representations as to the retention of some or all of the reserve. Consequently, there is no longer a need for a requirement to consult the Prudential Regulation Authority as well. I reassure noble Lords that both the Prudential Regulation Authority and the Financial Conduct Authority will continue to be closely consulted on this and all other regulations made in relation to the Flood Re scheme.

Amendment 88B covers the eligibility threshold and is intended to ensure that the legislation properly reflects the operation of the Flood Re scheme, and the way the insurance industry operates.

Amendment 90T addresses the risk that secondary legislation made at the end of the life of Flood Re could be seen as hybrid. We have every intention of carrying out a full consultation before making that secondary legislation to ensure that any private interests are properly considered.

Amendment 90L is intended to ensure that employment contracts within the scheme are transferrable, where they otherwise might not be. I reassure noble Lords that this amendment is not intended to enable the transfer of reserves required to be retained for prudential regulatory purposes.

In addition, the Government have also tabled a small set of minor and technical amendments to the Bill. We have also corrected an error in Schedule 3 to the Flood and Water Management Act 2010 to ensure that unused bond funds, called in by a SuDS approving body, can be returned to the right person.

Finally, Amendments 91B to 91D provide the Secretary of State with powers to introduce provisions to allow Ofwat to revoke existing water supply licences as part of the transition to the new water supply licensing regime. The power provides flexibility for Ofwat to allow existing licences to continue until new licences are available or until they are revoked on a specified day.

Amendment 91B enables the licence modification powers to work in such circumstances. The order can provide for more detailed arrangements to be set out in a scheme produced by Ofwat, subject to the requirements of the Secretary of State's order. The order also provides for compensation to be payable to the holders of revoked licences. The measure of compensation may depend on various factors, including, for example, whether the licence holder qualifies to hold a new licence in the reformed water supply market.

The amendments also make transitional provisions for existing sewerage arrangements with incumbents that become licensable arrangements under the new sewerage licence. Compensation is payable if it is no longer possible for some sewerage arrangements to continue because a licence is required. Again, the qualification of the operator for a licence would be a relevant factor. Amendment 91C corrects a small error in paragraph 6 of the schedule. I hope that noble Lords will be happy to support these amendments.

Earl Cathcart (Con): My Lords, this is the first time that I have spoken on this Bill on Report, so I should declare that I live in a band H property on my farm in Norfolk, I have a bore hole and I have spent about 30 years working and underwriting in the insurance industry. I am happy with these government amendments, but will the Minister clarify government Amendment 90L to Clause 70? I am afraid that I did not quite catch the Minister's assurance about capital, so I am asking her to say it again, please. The current wording is far from ideal, in that it could potentially raise the possibility that Ministers could access Flood Re's funds when the scheme is wound up, irrespective of their being needed for, for example, meeting regulatory run-off requirements.

I understand that Defra has said that an override to access Flood Re reserves is not the intention of the amendment to Clause 70. However, the concern is that in 20 or 25 years it could easily be interpreted as an opportunity to grab funds from Flood Re. Will the Minister make clear that the amendment is not intended to apply to Flood Re's reserves or capital? That would be most useful.

3.45 pm

Lord Whitty: My Lords, I, too, do not object to these amendments and I congratulate the Minister on getting through them in six minutes flat. Many of them will be substantial improvements to the Bill, particularly the ones which iron out a few things in relation to Ofwat in terms of the changing competitive regime. I very much welcome that. However, the noble Baroness will be aware that, in its second riposte, the Delegated Powers Committee said that it is not entirely satisfied with the provision for only the first instance of definition being by affirmative regulation. The Government will have to have an answer to that. In general, it is sensible for Ministers to swallow hard and accept all the recommendations of the Delegated Powers Committee, otherwise it ends in trouble down the line.

The only other thing I would ask about is Amendment 90T, which relates to hybridity. I do not really want to have a debate on hybridity now, but the Delegated Powers Committee raised the issue, and I am not sure that the Government's response fully meets the point, because it effectively says that, whether it is hybrid or not, we are going to ignore it. I am not sure that is a satisfactory response, but if the Delegated Powers Committee will buy it, I will not object. Otherwise, we welcome these amendments.

The Earl of Lytton (CB): My Lords, this is the first time that I have spoken at this stage of the Bill and I, too, must declare that I live in a band H property. However, I also have a professional interest in parts of the Bill by virtue of being a chartered surveyor. I certainly welcome the proposals for the affirmative resolution procedures outlined by the noble Baroness and agree that the disclosure of council tax information is necessary. However, I have one query, which relates to Amendment 90CD. Could the noble Baroness confirm that the normal process of disclosure will generally relate to the identity of the property and its council tax band rather than the identity of the chargepayer, the latter being something that is normally held by the billing authority? If I have missed some point about the disclosure, and where the identity of the individual can be discovered, perhaps she would put me out of my misery.

Baroness Northover: I hope I can put everybody out of their misery, which probably reflects the fact that I rattled through this in six minutes. First, I will take up the points made by my noble friend Lord Cathcart. We will come to a further discussion of reserves later, in which I am sure he will be interested. I make it clear that Amendment 90L is intended to ensure that employment contracts within the scheme are transferable, where otherwise they might not be. I reassure him that the amendment that he mentioned is not intended to enable the transfer of reserves that are required to be retained for prudential regulatory purposes. I hope that reassures the noble Earl on that particular point. I probably just went too fast on that one.

I am very grateful to the noble Lord, Lord Whitty, for his general support for these amendments. In response to the points he raised, I recognise fully, as a member of the Government, that the best thing to do when the Delegated Powers Committee comes forward with recommendations is to agree. However, he will also be aware that there are times when the affirmative procedure is used in the first instance and not thereafter because it is not anticipated that there will be significant changes later. I am sure that the noble Lord, Lord Whitty, will be very familiar with that pattern.

The noble Lord asked about hybridity. I will just go back to my original comments on that and then come to what I have been handed by way of inspiration. Amendment 90T addresses the risks that secondary legislation made at the end of the life of Flood Re could be seen as hybrid. The noble Lord thought that we had indicated in some way that we were just sweeping that aside—at least, I understood him to indicate that. I repeat that at the end of Flood Re we have every intention of carrying out a full consultation before making secondary legislation to ensure that any private interests are properly considered. I hope that the noble Lord is reassured on that point.

[Baroness Northover]

Perhaps I may write to the noble Earl, Lord Lytton, with further details on the point that he raised. I am sure that we can reassure him.

I am just checking to see whether I have covered everything. I trust that I have and am sure that noble Lords will make it very clear if I have not. I hope that, on that basis, they will accept the government amendments that I laid out at such speed.

Amendment 88A agreed.

Amendments 88B to 88D

Moved by ***Baroness Northover***

88B: Clause 51, page 108, line 8, leave out subsections (3) to (5) and insert—

"(3) The Secretary of State may by regulations make provision as to levels of reinsurance premiums payable by relevant insurers under the FR Scheme, and may make different provision for different purposes."

88C: Clause 51, page 108, line 17, leave out from "different" to end of line 18 and insert "purposes by reference to the value of the household premises insured."

88D: Clause 51, page 108, line 18, at end insert—

"( ) In this section "flood insurance" means insurance in respect of risks arising from a flood."

Amendments 88B to 88D agreed.

Amendment 89

Moved by ***The Earl of Lytton***

89: Clause 51, page 108, line 18, at end insert—

"(6A) Regulations under subsection (5) shall provide that every policy which is subject to a levy for the purposes of the Flood Reinsurance Scheme shall be covered by the Flood Reinsurance Scheme."

The Earl of Lytton: My Lords, I do not know whether I can rattle through this in quite such short a time as six minutes but I will do my best. I start by expressing appreciation to the many professionals and industry bodies who have been extremely open and frank with me about their views and insights. I am also very grateful to the Minister and his department for the correspondence and guidance that they have generated.

My starting point is that Flood Re is necessary and desirable, and I hope that nothing I say will be interpreted as damaging that. The objective of Amendment 89 is to enshrine fairness in the primary legislation by requiring that the subsequent regulations brought forward by the Secretary of State will ensure that all properties included in the calculation of the levy are eligible for the scheme. I will come back to that later. The objective of Amendment 90 is to ensure proportionality in the primary legislation by requiring that the regulations limit the possibility of unfair loading against any particular council tax band.

First, I shall set these amendments in the context of the wider issues. In Committee, I expressed grave concerns about the Government's unwitting exposure of risks in the mortgage lending industry, a sector which, I pointed out, is influenced both by the availability at reasonable cost of perils insurance, including for flooding, and by its own independent assessment of risk. It is dangerous to assume that the potential for value write-downs is simple scaremongering or that lenders will necessarily just fall behind insurers' lead. The situation is made worse by the express intention to move to individual risk assessment with insufficiently accurate, readily available or acceptably cheap data, either now or proposed, on which such individual risk could reasonably be assessed. It is clear from what the British Property Federation tells me that there is an issue here, and I feel that the Government could do more about it.

Either one has a risk pool and you do not ask too many detailed questions or there is an individual risk assessment with 1,000 variations. In the latter case, we can of course wait to see what happens to the at-risk properties that lie outside Flood Re. I am told that they can expect a significant hike in insurance premiums and I believe that we have started to see that happen. Of course, we do not know what the "at real risk" numbers are because Defra has not carried out an audit. The Environment Agency has different figures depending on whether coastal storm surge, fluvial, surface run-off, sewer surcharge or groundwater rise is involved, as well as indirect vulnerabilities such as property damage following disruption to services and access. Defra seems to select what suits its purposes, and in a sense I do not blame it for that. However, I am fairly unhappy about the whole of this part of the Bill, in particular, its evidence base and its unintended consequences, particularly when confidence in Flood Re is so vital, as I think it is.

I turn to some of the detail behind the amendments. The statement of principles said that it would ensure that home owners and small businesses would be protected. That was the public expectation. The Government claim that Flood Re is designed to cover the same categories of policyholder, but that is not how it appears. Leaving small and medium-sized enterprises apart, the Government need to explain and justify the exclusion of many homes and their rather convoluted way of defining them. It is that which I wish to address in particular.

The Defra note last week on the scope of Flood Re is evidence of the difficulties. The criteria are listed on page 2. Of the five criteria listed, three simply pose additional questions. As regards whether properties are insured in the name of an individual or in trust for an individual, how would one know? Whether properties are used for residential purposes may be a hotly debated matter given the number of people who work from home. The test of occupancy by the policyholder or immediate family also worries me. Under policies that are in scope, we note that contents insurance in the main is included but that stands in stark contrast to the insurance of the building fabric, which is on a different template. A lot of people with composite policies, especially some first-time buyers, might struggle to know the difference between the two. Buildings insurance policies in scope are covered on page 3 and it seems to me that things get into further complexity. The categorisation of owner-occupied homes provokes a raft of subsidiary questions. Who is insured? Who

occupies? What are the family connections? For owner-occupied leaseholds you have to know whether the leaseholder is in actual occupation and what the insurance covenants state. These could be in a superior leasehold document or have just come about by subsequent lease variation or custom. The policy must cover three flats or fewer and the freeholder—in particular not being a head lessee I would ask your Lordships to note—must live in one of them. We have questions of numbers of units covered in the policy not being the same as the number of homes in the building and questions of how one might determine that. There is also the identity of persons, their relationships and the actual place of abode. Quite why the classification of homeowner hinges on the residence of the freeholder escapes me. I do not think that it will be seen as a fair test for this purpose. Once the presence of leasehold is established, the criteria create all sorts of further additional interests, but I will leave the noble Lords, Lord Grantchester and Lord Whitty, to expand on that.

When a top-floor maisonette gets split and combined with the roof space as an extra unit to make four, what then? Why should that change the status of all the others? Are leaseholders who share the freehold via a company formed for the purpose to be included? If so, how would one distinguish that from a next-door investment property? I do not accept the justification for the blanket exclusion of mixed residential and commercial blocks, in which I also include the one, two or three self-contained flats above the shop. I also feel that including these is not in any way insurmountable.

I turn now to the exclusion of council tax band H and I properties. I note that the Association of British Insurers' briefing says that this was a ministerial decision. I simply point out that many people occupy modest London homes in band H while near-identical properties in the regions may be in much lower bands. The disparity has arisen because of the economic imbalance that has grown up over time. But, as the brokers Hiscox put to me, what conceivable difference would it make to the actuarial calculations of Flood Re to include them, especially if the maximum claim that could be made for higher-value properties was capped at some figure? What effects are anticipated from excluding large numbers of inner London homes? Further, since when has the registered address of a business been anything whatever to do with the place where the business is conducted or, for that matter, with the predominant use of the dwelling where it may happen to be registered?

I turn to the exclusion of properties built after 1 January 2009 which none the less, as with the other exclusions, form a component in the levy. In Committee, we debated *Planning Policy Statement 25: Development and Flood Risk*. That was published in March 2010. I am not clear why the earlier retroactive date was chosen, but I suggest that the process was less than open and transparent. Purchasers of homes in that category would have been unaware that they might have been excluded and will consider themselves, I suspect, unfairly penalised. Based on 2% of the estimate of completions since the end of 2008, there are probably about 30,000 of these properties as a rough estimate, 2% of which are at significant risk. But they should also be at particularly low risk in actuarial terms if local planning authorities, developers and planning inspectors have adhered to the principles of PPS 25. It would be much more appropriate to set a cut-off date of, say, Royal Assent.

4 pm

The reason that a reinsurance pool has credibility and cohesion is that those at little risk have the sense of needing protection in case a peril might none the less befall them, but the likely consumer reaction to being statutorily excluded and denied any benefit from the scheme and yet obliged to contribute vicariously to it ought to be a matter for sober reflection.

Defra takes four pages to explain the latest government position on all this, but it is overcomplicated and I do not believe that it will work. Many industry players have also expressed their doubts to me about its deliverability. Furthermore, it needlessly reduces the insurance pool for no ostensible advantage. I am sure noble Lords will all know that the principle is, within reason, the larger the pool the better the stability of the scheme. The test that was suggested to me by Hiscox is that if it is a domestic property in a council tax band and built before a specified date, it should be within the Flood Re scheme. If it is not; it is out. Mixed uses can be apportioned. There is no fuss and no bother. It is easy to verify. It is a radical simplification of the entire process.

I do not believe that there would be any adverse affect on the flood risk pool profile. It would be as fair as it gets. The Government need to think further and actively engage a wider range of professional and financial views. That is all I ask. I beg to move.

Lord Cameron of Dillington: My Lords, I support the amendment. I do not have quite as many questions as the noble Earl, Lord Lytton, but I have a similar sense of the injustice and unfairness that are implicit within the Flood Re scheme.

I am not quite sure what the opposite of taking a sledgehammer to crack a nut is, but perhaps it is taking a bucket to stop a flood or maybe it is using the current Flood Re scheme to deal with the domestic flood insurance problems and then excluding more than half of all UK households. I know that there is then the added problem of SMEs, but I totally accept that for the present the scheme is designed to tackle the domestic marketplace.

In my view, the proposed scheme is so hedged about with exemptions that it fails to get to the heart of the domestic flood insurance problem. Even without SMEs, most buildings will not be covered by the scheme. Exclusions include: nearly all leasehold properties; the entire private rented sector; housing association schemes, whether shared equity or let—and are these not the very people whom we are trying to protect?—council houses; homes built after 2009; and properties in council tax band H. Some 60% of all domestic properties are specifically excluded. Flood Re, in this case, is not fit for purpose. It would have been so much more simple, fair, just and equitable to have included all of the above and dealt with the problem of excess demand on funds by either capping individual payouts

[Lord Cameron of Dillington]
or adjusting the level of premium at which Flood Re cuts in. It seems unimaginative to me to exclude 60% of all properties as a way of mitigating the risk.

Incidentally, the average household premium is just under £200, so the 2.2% levy amounts to an average of £4.40, not the £10.50 being bandied about. When I met with the ABI, it seemed to have no satisfactory explanation for the difference in these figures, so I have no idea where the £10.50 came from. The reason I mention this is that, if a £10.50 premium is considered acceptable, and the real figure is actually much less, then maybe adjusting the amount of supplementary levy on the premium could also be a way of mitigating risk in the early years of Flood Re. Just to exclude 60% of the properties surely undermines the whole purpose of the scheme.

Turning to the various unjustifiable domestic exclusions, I will deal with them one by one, starting with properties in council tax band H. First, as confirmed by ABI, the inclusion of such properties would not in any way raise the cost of the scheme. If, as suggested by Hiscox, a cap of, say, £160,000 were put on any one payout from the scheme, their inclusion would not increase by one jot the risk of failure of the Flood Re scheme. Noble Lords should bear in mind that those who are being excluded are not paying the £4.40 supplementary levy or even the £10.50 towards the scheme: they will be paying nearer to £50, £60 or £70, because of the value of their house, towards a scheme that specifically excludes them. They will not all be rich; many of them will be elderly, cash poor and vulnerable.

I of course understand the politics at work here; as I said, this exclusion is an entirely political decision. If they cannot be included in the scheme, however—which, I agree, seems unlikely at this stage—I would strongly support the National Flood Forum's proposal that they should be helped with any mitigation measures possible, either through locally targeted schemes or from the Flood Re pot once it has been built up, as in Amendment 90ZA, put forward by my noble friend Lord Krebs and the noble Baroness, Lady Parminter. They should not be totally abandoned when they are contributing so much towards the scheme itself.

Turning to post-2009 properties, apart from people in this House and some people involved in the insurance industry, I have yet to find a single person in real life who knows anything about this 2009 cut-off and the effect it may have on their insurance in 2015. Included within that group of innocents are two people who actually work in the insurance industry. I know that some of your Lordships are saying, "Look, we have to make an example here. We must stop developers building on the flood-plains and the only way to do it is to make these properties uninsurable against flood risk". To me, that misses the point. For a start, society—that is you, me and the local planning authority—gave permission for these houses to be built. Currently, the Government are actually helping these people to buy these houses through their Help to Buy scheme. The Environment Agency only comments on 6.6% of all applications; perhaps it should have some responsibility. My point is that, if we do not want houses built, we have to stop them at source and not just take it out on the poor, unfortunate souls who—probably totally unknowingly—end up living in these properties either as owners or, worse still, as tenants, who of course are going to be doubly excluded.

Furthermore, to have a blanket exclusion on all post-2009 properties also misses the point. We are not just talking here about houses on the designated flood-plain; we are talking about all houses that represent an insurance risk. We are talking about houses that probably started flooding since 2009 for a variety of reasons. There are more and more examples now of houses flooding because of rising ground-water, even on hillsides. There are many examples of houses flooding from surface water, sometimes because of activities upstream—possibly subsequent to 2009—over which the householder had no control; for example, another development that increases the speed of run-off. There are also houses where the weather pattern has changed and, after two floods, the cost of insurance becomes unbearable. Therefore, just to have a blanket exclusion of all properties built after 2009 seems completely unnecessary and grossly unfair. It is well known that there are several examples, most notably in Hull, where there are properties side by side, one of which will be included and the other, because of this rule, will not be—you can almost guarantee that neither of the owners knew their future fate when they chose which one to buy.

Of course, the biggest exclusion is the leasehold and rented sector. I will leave my sense of injustice about those properties until we get to Amendment 89B from the noble Lord, Lord Whitty.

All in all, I realise that it is probably too late to upset the apple cart of this version of Flood Re at this stage. However, many in the insurance industry are pretty unhappy about it, largely because they know that, when the blatant injustices become obvious, they and not the politicians will get the blame. I hope that the scheme works for those lucky 40% who find themselves included, but it would have been much more imaginative to have made the scheme much more inclusive, if not all-inclusive, and to have mitigated the risk in other ways. I hope that when it comes to the various regulations bringing this scheme into effect, some thought will be given to those who have inadvertently found themselves on the wrong side of the legislator's pen.

Lord Crickhowell (Con): My Lords, we all owe a great debt of gratitude to the noble Earl for moving this amendment and to the noble Lord who just spoke for spelling out in great detail some of the shortcomings that can be identified. I think it is 37 years since I was a director of a firm of Lloyd's insurance brokers, on the board of a large Lloyd's underwriting agency and losing money at Lloyd's. I do not think I must declare an interest for that, though, like others, I must declare one as living in a band H property.

I have been very uncomfortable about this scheme, based not so much on the residue of knowledge long forgotten as on the political outlay that I see arising when the whole scheme does not produce the results that most people expect. I told my noble friend Lord de Mauley on Thursday morning, when we happened to meet, that I had just received an e-mail from the chief executive of Hiscox. My noble friend asked me

to send a copy of that to him—although he was copied into it, apparently he had not seen it. I said I would come back to this issue because the Hiscox e-mail raised a number of very significant issues that must be addressed. I do not have to go through them all in detail because we had very good summaries from both the noble Earl and the noble Lord, Lord Cameron.

Hiscox points out that the scheme, though clearly desirable in principle, will not solve the problem of unaffordable flood insurance that it was created to address. Nor does it take into account the changing nature of flood. Hiscox points out that of the 885,000 homes in high-risk areas more than 350,000—3.8% of the total housing stock—will be excluded. While some of those will be commercially owned properties able to buy commercial insurance, a proportion will be private buy-to-let properties. What is more, Hiscox says it is likely that this underestimates the scale of the problem. The noble Earl pointed out the uncertainties about the numbers. Hiscox indicates that 80% of its claims came from homes that it did not consider to be at flood risk. It is not just homes sitting in obvious flood plains, of the sort with which I had to deal when chairman of the National Rivers Authority. No one is more indignant about some of the planning decisions that have been taken there than I am.

The whole thing has been arrived at by negotiation between the Government and the Association of British Insurers. No doubt we will be told that this is the best deal that can be done at present. I am not sure we should be satisfied with that. Clearly quite a number of active insurers do not believe it is the best possible scheme and, for the reasons well elaborated by the noble Lord, Lord Cameron, it does not appear fair.

4.15 pm

The noble Lord drew attention to the contribution that the average UK home owner is likely to pay—approximately £3.30 to £4.40 per week on the average home insurance premiums—but band H and I properties will pay 15 to 20 times the average, and they are not going to get covered at all. Together with new-build homes, they will pay 8% of the £180 million to fund the scheme even though they are to be actively excluded from the protection that the scheme offers. So one asks how those faults can be remedied; Hiscox actually indicates how. Again, some of the answers were provided by the noble Lord, Lord Cameron. Flood Re could be expanded to cover an additional 10 million homes in Hiscox's view. This would increase the levy to Flood Re by an estimated £100 million. The progressive nature of Flood Re would mean that the better-off would still pay more. In addition, opposing a cap of £160,000 on the amount insurers can recoup from Flood Re would ensure that the most valuable properties did not impose excessive costs on the scheme.

Therefore, we are entitled to say that more needs to be done. I come back to the point that really prompts my concern. It is not that we should not have a scheme like this, or that perhaps negotiations do not have to continue, but that when the floods do arise there will be fury—not just anger—among those who thought that they were covered and find that they are not, and those who have contributed to a scheme for which they receive no benefit, and which does not apparently even then cover all those who clearly should be covered. Therefore I am very concerned about this.

Because we are dealing with an ongoing negotiation, my noble friend might say that this is the best deal we have been able to get at present. However, it should not be left there. If it is simply a negotiation, we should have an understanding and a clear statement from the Government because, as the noble Lord, Lord Cameron, pointed out, they have laid out some of the basic conditions, not the insurers—the Government have laid down some of the most startling exclusions. But this is not a matter that holds here. Every effort surely must be made to improve a flawed scheme that will cause anger to be felt not just by the insurance industry but by the Government of the day.

These things often happen quicker that we can imagine. Just because we have had one very bad winter with a lot of floods, does not mean it will not happen again quite quickly. It was always my experience that when we had a major drought, it was immediately followed by a flood when I had responsibility for dealing with it. Whenever I was told that there was a one in 100-year risk, the flood happened the following year and probably twice in the next two or three years, so this may happen quite quickly. In that case it may be my noble friend Lord De Mauley who receives the flak and the present Government, or it may be the successor Government in the very near future. Therefore, I hope we can receive some reassurance that this is not the end of the story, and that every effort will be made to improve on the negotiated scheme that we have before us.

Lord Campbell-Savours (Lab): My Lords, as in Committee, I need to declare an interest in that I have a leasehold interest, with my wife, in a band G home on the Thames built on the flood plain. My flat is not threatened by flooding, has never been flooded and can never flood because it is on the second floor, and the whole of the south of England would have to be flooded before we were. Nevertheless, I have to report that a car park area that serves our block of flats was recently subjected to some flooding, and it is with that in mind that I feel that I should restrict my comments today and limit what I have to say, and I will not be voting on the issue.

All I want to do today, without commenting on the issue in the light of what has happened, is to read a letter which has been sent to my noble friend Lord Whitty, the noble Earl, Lord Lytton, the noble Baroness, Lady Bakewell of Hardington Mandeville, Mr Owen Paterson MP and Ms Anne McIntosh MP, who I understand is the chairman of the Select Committee in the House of Commons. I simply want to read the letter, which the Minister has seen, because I think that it should be on the record so that all those in the industry outside can read what it says.

The letter is from a Mrs Beverley Morris of Topcliffe Mill, Topcliffe, Thirsk in North Yorkshire, and she has given me permission to read it. Part of it states:

"If I may give a brief summary of our current situation to further expand upon our current predicament.

[Lord Campbell-Savours]

This building, known as Topcliffe Mill (Mews), and built as a water powered corn mill circa 1800, was subject to a 'once in 100 hundred year' flood on 26th September 2012. Apartments 1, 2 and 3 on the ground floor were flooded along with 2 communal areas. Three houses in the same location behind the Mill were also flooded".

Here we are talking about a leasehold property.

"Much of the North East was flooded during this period and Topcliffe Mill was 'sandwiched' between the swollen River Swale to the front of the building and the saturation of the fields to the rear.

Topcliffe Mill building insurance policy is purchased by a small management company, Town & County Properties (Wharfedale) Ltd and the premium (pre flood) was just shy of £5,000 for the year 2012, divided between the 12 homes. Post flood and following the claim, the renewal premium was and continues this year at £23,750 divided between the 12 homes, an increase of almost 500% per home. My husband and I are now paying £2,000 per year for a Band C, 4th floor"—

fourth-floor—

"domestic flat that we have made our home for the past 10 years. As we are not in a position to pay this amount up front and on demand, arrangements have been made to pay by instalment, which in itself incurs extra charges.

The ABI are offering assurances that 'there is no systematic problem with freeholders being able to obtain insurance for their leasehold properties'. Our management company, have indeed secured building insurance, as I understand they are legally required to do, but at what price? The insurance companies, who know this, have our management company and us over a barrel it seems.

T & C Properties Ltd had their agent, J M Glendinning of Guisley in Leeds thoroughly search the insurance market for a better deal and it was to no avail. As owners, we took on the challenge of checking out the markets ourselves and if required we can supply documentary evidence of refusals, although many refused point bank on the telephone to even consider it. Our management company and their agents are also prepared to lend their testament to the situation we find ourselves in. I am at a loss to see how this scenario fits with the ABI's explanation either now or in the future if leaseholders are excluded.

Referring again to the Food and Rural Affairs Committee meeting 11th March 2014, Ms McIntosh discussed with Aiden Kerr the issue of SME exclusion from Flood Re. He gave his explanation stating that Flood Re 'is limited to households'. As we are not an SME but a collection of households, it begs the question, does being a leasehold define us as not a household?

During the session 11 February 2014 you drew attention to the services of the Financial Ombudsman Service. We, however, have no recourse to them to make any complaint into the risk assessment that led to our mighty high renewal premium and nor will we in the future, because the policy is not in the name of the domestic leaseholder. Would the management company complain on our behalf? Doubtful, since they are not financially affected, transferring all the associated charges directly on to the leaseholder …

The notion that one might sell up and move on, being unable to meet the management fees is something of a forlorn hope. Everyone is aware of how property values have fallen and the North East of England is not experiencing the same improvement to values as the south. Add to this a history of flood— albeit the first in 100 years. The financial security of our household stands to be jeopardised, in terms of our ability to meet mortgage payments due to over stretched resources and/or the ability to secure reasonable flood insurance.

The opportunity to afford us the same level of assistance being offered to freeholders is likely to slip by if we are not included in the Flood Re scheme. Given that the decision to have a cap in place in the medium term has been taken, I feel it only fair and just that leaseholder homes are included".

As I said, my position has changed since the last time I debated these matters, but that testimony is from someone who is directly affected, and a five-times premium increase in the north of England on a band C flat on the fourth floor of a block of flats is something that Ministers should seriously think about. Indeed, I would have thought that Parliament would have addressed that problem.

Baroness Parminter: My Lords, the aim of Flood Re is to support people at the highest risk of flooding who would struggle to find affordable insurance on the open market. The way in which it is funded, as the noble Earl, Lord Lytton, has reminded us, is via a levy to provide a funding pool to use for the purposes of the scheme. Many contributors are likely to be at a low or no risk of flooding, but this approach spreads the risks across a large population to make it more affordable.

The question that we are trying to address here is whether it is fair to include specifically band H council-tax and post-2009-built homes—I am not going to address leaseholders because, as other noble Lords have mentioned, we are going to come back to this with an amendment from the noble Lords, Lord Whitty and Lord Grantchester. There will be a small number of asset-rich but income-poor in band H houses. In Committee in this House, the Minister confirmed that 0.5% of such households are in the five lowest-income deciles, or 45 properties in flood risk areas.

A letter to the Committee in the other place from the Parliamentary Under-Secretary Dan Rogerson on 10 December 2013 confirmed that the cost to add band H houses to the scheme would be between about £1.4 million to £5.4 million, funded by an increase of up to 3% in the levy paid by all householders. Given that small number of asset-rich but income-poor, and the high cost to add these to the scheme, I do not support their inclusion in Flood Re—indeed, it would be a regressive measure—but I would certainly hope that lead local flood authorities will target some of their funding to address the impacts on vulnerable elderly people in their areas. Targeted mitigation of the impacts of this exclusion would be a far better approach and, as the noble Lord, Lord Campbell-Savours, said, is supported by the National Flood Forum.

Houses built post-2009 were excluded by the previous Administration from the statement of principles, which preceded Flood Re—the reason being that, with strong planning policies in place, such homes should have been properly assessed for flood risk. Equally, the date as set was important to avoid incentivising development in areas of flood risk. I accept that that is not perfect, but the exclusion of post-2009 from the band H properties was widely consulted on by the Government last year in advance of drawing up these proposals and was broadly supported. Hundreds of thousands of homes will benefit from Flood Re and, frankly, we need to get on with it. I am satisfied that this approach is fair and targeted at those most in need, and with regret I therefore will not be supporting the amendment.

4.30 pm

Lord Moynihan (Con): My Lords, I declare an interest as an owner of a band H property. Many noble Lords have spoken on this amendment at this stage. The noble Lord, Lord Campbell-Savours, and I spoke to a similar one in Committee, and I am pleased

that the House has returned to it. I have one question for the Minister that is a matter of principle. While the rationale for the exclusions from band H properties is principally that some band H owners have higher incomes than others—that is not a proven principle but it nevertheless continues to be argued by the Government—does the Minister accept the view that the Flood Re scheme should follow the principle that those who contribute to this government scheme are afforded its protection?

Lord Whitty: My Lords, we are grateful to the noble Earl for tabling this amendment, and particularly for the way in which he outlined the dilemmas of this proposition. I think we all have a problem here. I hope that I do not need to make it clear that we on this side strongly support the basic concept of Flood Re and the reassurance that it will give to a lot of people who are currently worried about their future cover.

We have to recognise that the Government are not entirely on a free position on this; indeed, I congratulated the Government—that is quite rare for me—not long ago on reaching an agreement with the ABI, which I know is an incredibly difficult negotiator. Therefore, I do not think that any of us want to unnecessarily unravel the arithmetic that lies behind the Flood Re proposition as it now is. However, the wide-ranging nature of the noble Earl's amendment means that we would be unravelling it quite substantially.

On the other hand, as noble Lords have made clear, this is not entirely a matter for the insurance industry. The structure of the project is an agreement between insurance companies but it has to be backed by Parliament and it therefore has a statutory base. Parliament has to be concerned about fairness, equity and proportionality. We therefore have to query whether the exclusion of certain properties, and such a large number of them in aggregate, is fair and equitable.

To some extent, I go along the same lines as the noble Baroness, Lady Parminter: there are different arguments relating to the different categories. Some exclusions were in the previous statement of principle and are therefore in a changed position as a direct result of the demarcation of Flood Re. Small businesses were covered by the previous arrangements, as were tenants in leasehold premises—although there have been some concessions of late, which I will come on to in the next amendment—and band H properties. The exclusion of post-2009 properties is not a new position; it was the position under the old scheme.

I shall comment on my view on each of those. First, I accept that small businesses have a different way of meeting their insurance requirements. I also accept, on the other hand, that many small businesses, boarding houses, shops and small premises were seriously affected by those floods and, under their understanding of the previous settlement, would probably expect to be covered by the replacement scheme. It is therefore quite important that we bear in mind the position of small businesses. The insurance industry claims that there is not a market failure in this area, and the Government seem to have accepted that. Maybe we ought to put businesses in a different channel because they are not dealt with in the same way as residential properties under Flood Re. The Government should not lose sight of the fact that many small businesses are under serious risk and do not feel well protected by the current situation. I hope, therefore, that the Government will be able to come back to this.

The noble Earl, Lord Lytton, the noble Lords, Lord Cameron and Lord Moynihan, and others referred to band H properties. It is a slightly odd move by the Government to exclude band H—an unusually populist, progressive move, to avoid cross-subsidy from the poor to the rich. It may be a welcome indication of things to come. However, it still leaves a number of people in difficulty. I think that the Government may have to look again at band H, but it does not make a lot of difference to the arithmetic. The number of people who are asset-rich but income-poor is relatively small and, therefore, it could not make a priority social case for re-including band H.

That leaves me with the subject matter of a subsequent group. Almost the whole of the tenanted sector and the private rented sector, even with the Government's new concessions, are excluded from this. They all regard themselves as residencies, they all have domestic insurance in one form or another and they are all lived in by households and families. I think it is unfortunate that they are excluded. I would give my priority to that and I will come back with a further amendment. As it stands I cannot fully support the broad sweep of the noble Earl's amendments. Nevertheless I thank him for the debate and the wide range of issues which, one way or another, the Government will have to explain to various sectors of the public.

Lord De Mauley: My Lords, I thank the noble Earl, Lord Lytton, for his Amendments 89 and 90. He raises issues which I know are of concern to people and I thank all noble Lords who have spoken on all sides of the argument.

Amendment 89 to Clause 51 would require that all properties included in the calculation of the levy are eligible for the scheme. It is important to remember that while many homes in the United Kingdom are at some risk of flooding, Flood Re is designed to address an affordability issue for the 1% to 2% at the highest risk of flooding. The levy will provide Flood Re with a funding pool which will be combined with the premium income from those policies which are to be ceded to Flood Re. This will be used for the purposes of the Flood Re scheme, including the purchase of reinsurance and payment of claims. The purpose of having a pool, as is the case for much of our taxation, is that costs are shared by many so that those most in need can benefit. If everybody who paid the Flood Re levy stood to gain, there would be fundamental implications for the required amount of the levy. Alternatively, if the levy was limited to flood-prone households, the pool would not be large enough to have a significant impact on prices and therefore on the affordability of flood insurance.

The insurance industry has been clear that low-risk and no-risk householders have historically subsidised flood insurance for those at a higher risk of flooding and that the move to risk-reflective pricing will over time remove this cross-subsidy from the market. The

[Lord De Mauley]
levy simply replicates and formalises this existing cross-subsidy. Indeed, the ABI has assured us that the levy can be introduced without having an impact on bills in general for householders at a low risk and no risk of flooding, for those in band H or for those with properties built after 1 January 2009—that is, those outside the pool.

If I understand the noble Earl's intention correctly, I think he is particularly concerned to ensure that those properties which are not eligible for the scheme—such as band H properties, properties built after 1 January 2009 and certain leaseholders on commercial policies—either stand to benefit from Flood Re or do not pay the levy. While I understand that cross-subsidising something from which you will receive no benefit might be perceived as unfair, I have explained why there always have to be some net contributors to make a pooling system work, and this includes the overwhelming majority of households at low risk or no risk of flooding. We discussed the rationale for the scope of Flood Re at length in Committee, and I explained that we think that we have got the balance right. The Government's approach was widely supported in the response to the 2013 consultation. This approach means that those who are most in need of support will receive it to enable a smooth transition to the free market.

The noble Earl commented on the complexity of the scope of Flood Re. The proposed criteria reflect the current situation for purchasing a domestic insurance policy. We are not seeking to change the circumstances under which insurance is purchased through Flood Re. We must remember that Flood Re is designed to help those people at the highest flood risk, which we estimate could be around 500,000 households. I have heard some very fanciful numbers being bandied around, and they all miss this point. I am not saying that the Government are not still listening to the debate. We will monitor the market, as will the ABI, and we will publish our findings. Should the evidence point to specific issues with insurance for particular sectors, we will discuss with the insurance industry what might be possible.

Lord Campbell-Savours: The Minister referred to fanciful figures. The figures I produced on behalf of the lady in Thirsk were real figures showing a five-times increase. She and the 11 other people in flats in the same block are not covered. How can the Minister give an assurance that it will have very little impact on these sorts of people?

Lord De Mauley: My Lords, I was not for a moment suggesting that the lady to whom the noble Lord referred was one of those bandying around that sort of figure—by no means. It is difficult for me to speak about a very specific instance but, if I can, I will come back to that later. I was referring to estimates of the number of households involved. I hope the noble Lord understands that.

Several noble Lords referred to band H properties. In designing Flood Re, we have been very clear that we want to target the benefits where they are most needed while not increasing the costs for those not at flood risk. On that basis, we believe that it would not be justified for band H and equivalent properties to be included. The progressive nature of Flood Re received wide support in the public consultation.

Let us be clear that the exclusion of band H properties was set out explicitly as part of the June 2013 memorandum of understanding. This document reflects the needs of both parties and was agreed by the Government and the ABI on behalf of its members. In designing the scheme, the Government and the industry needed to ensure that the pool was viable and affordable. Including band H properties would increase the costs of Flood Re overall, which could result in a reduction in the benefits to households in lower council tax bands or an increase in the levy for all households. We stand by the decision to target support to those in lower council tax bands, as reflected in the memorandum of understanding.

Responding to the points raised about affordability for those in this council tax band, our analysis suggests that relative to other bands, a move to risk-reflective pricing would have limited impact on the affordability of a combined insurance policy for band H households. The noble Lord, Lord Whitty, referred to concerns that those households, which might be asset rich but income poor, would be at risk though this approach. We looked closely at this. According to the 2011 living costs and food survey published by the Office for National Statistics, 85% of those who live in band H properties and hold a combined insurance policy are in the top 30% of earners with 48% in the top 10%. More significantly, perhaps, only 0.5% of such households are in the five lowest income deciles, which translates to roughly 45 properties in flood risk areas. I think my noble friend Lady Parminter mentioned that.

The noble Earl, Lord Lytton, the noble Lord, Lord Whitty, and others referred to small businesses. As I said in Committee, we gave careful thought to the scope of Flood Re scheme and consulted on the proposed figures on the domestic insurance market, which received broad support. The consultation responses did not provide evidence of widespread problems for small businesses with secure and affordable cover, although anecdotal examples of problems in some specific geographical areas were put forward. A government survey of more than 9,000 small businesses in England found that less than 1% of businesses had experienced difficulty getting property insurance in the past year due to the risk of flooding, and that no businesses had been refused insurance cover due to the risk of flooding.

4.45 pm

As my noble friend Lord Cathcart set out so eloquently in Committee, in relation to his own business, business insurance policies tend to be bespoke and are priced to take account of their specific risks. On this basis, we have concluded that the insurance market for small businesses does not appear to have the same systemic issues as the domestic insurance market. Therefore, we remain of the view that overall there is insufficient evidence to justify government intervention in the provision of insurance cover for small businesses. The insurance industry has also recently confirmed that it

does not expect there to be widespread issues with small and medium-sized enterprises' access to the insurance market, and that there is plenty of capacity to continue to provide insurance on a competitive basis. But I agree with the noble Lord, Lord Whitty, and I assure noble Lords that we will not lose sight of small businesses.

The noble Earl, Lord Lytton, and the noble Lord, Lord Cameron, among others, referred to properties built after 1 January 2009. That cut-off date recognises that new housing developments should be located to avoid flood risk or, when development in a flood risk area is necessary, it should be designed to be safe, appropriately resilient to flooding and not increase flood risk elsewhere, in line with that national planning policies in place. The date therefore reflects the fact that homes built since then should already be insurable at affordable prices.

As I am sure noble Lords are aware—the noble Lord, Lord Whitty, explained this—when the statement of principle agreement between government and the insurance industry was signed in 2008, it was agreed that there should be a cut-off date, and it was set at 1 January 2009. We are maintaining that under Flood Re, and we consulted widely on it. I must be absolutely clear that there has been no change in policy. The noble Lord, Lord Cameron, in particular, spoke about planning and development in this context. Tens of thousands of planning applications are made every year, including minor applications such as for extensions. The Environment Agency is a statutory consultee to local planning authorities for several types of planning application related to statutory duties on flood risk, protection of land and water quality, waste regulation and fisheries.

The Environment Agency has published standing advice for developers and planning authorities as a tool to help local planning authorities establish the level of environmental risk involved in planning applications. Its role in examining planning applications is only part of the planning process. Right from the start, local plans should ensure that new development is steered to areas at least risk of flooding, wherever possible. Local planning authorities undertake strategic flood risk assessments to develop their understanding of flood risk in their respective areas.

The noble Lord, Lord Cameron, suggested there might be an exclusion of a large number of homes from Flood Re. As I said earlier, only 1% to 2% of properties need to be covered by Flood Re. The Government have been clear on the number of properties built after 2009, and band H properties that would potentially be eligible for Flood Re if the risk-reflective premium for Flood Re met the relevant criteria. It is very difficult to identify the number of leaseholders who are covered by a commercial policy who would potentially be at a high enough level of flood risk otherwise to be eligible for Flood Re, but, based on the best available data, it would be in the low thousands at the very most. The suggestion that tens of millions of homes would be excluded is not right. If the number is supposed to refer to those policies that are out of scope because they are treated as commercial by the industry, I would also disagree that such properties are excluded. They are not covered by Flood Re because they form part of a separate commercial insurance portfolio. These policies will not contribute to the levy so, while they are out of scope, it is not because government or the industry has decided wilfully to exclude them but because they are not part of the market that Flood Re is designed to address.

My noble friend Lord Crickhowell put forward his suggestion that Flood Re does not take into account the changing nature of flood. One of the benefits of Flood Re is that it is flexible. Eligibility is based on the insurer's assessment of risk to a property, which will be reflected in the premium for the flood risk part of the policy. As long as the insurance industry continues to keep pace with changing risk, that will be reflected in the policies eligible for Flood Re.

My noble friend Lord Crickhowell also referred to a suggestion about introducing a cap on claims. That is an interesting suggestion, but it was considered and discounted during the design phase. Flood Re must be as simple as possible to operate if it is to be up and running next year. This type of cap on insurance claims would create an extra level of administrative burden that would add to the complexity of the design of Flood Re. We also have concerns about the impact a cap would have on the ability of customers to protect themselves from the effects of flooding.

The noble Lord, Lord Campbell-Savours, referred to a specific example. I am very sorry to hear about the incident that he referred to. When prices are put up we normally advise that people should shop around, because that nearly always means a better deal. I appreciate that that is difficult for the leasehold sector. We have asked for evidence and I thank the noble Lord for bringing this example to my attention. It might be helpful if we were to have a specific discussion about it, because it may be that we can point people in the right direction. I certainly will ask the ABI, too, to follow up. For these reasons I am going to ask the noble Earl to accept that his Amendment 89 would not be appropriate.

I turn briefly to Amendment 90 to Clause 53. This requires the levy to be set in such a way as to reflect the council tax band of the property concerned. The amount of the levy collected from insurers will be determined according to the insurer's share of the market. If I have understood the amendment correctly, in order to calculate the levy according to council tax band, Flood Re would need access to detailed information from each insurer on the number of households in each council tax band they currently insure.

Flood Re is designed to be as simple to operate as possible. At present this information would be administratively burdensome to collect and would place impracticalities in the way of Flood Re's successful operation. It would be costly to force insurers to apportion the levy for each household by council tax band and there would be no way to enforce that. For the reasons I have set out, this would not be workable in practice, so I hope that the noble Earl will be persuaded to withdraw his amendments.

The Earl of Lytton: My Lords, I thank the Minister for that comprehensive reply. I thank all noble Lords from around the House who have spoken. To the

[The Earl of Lytton]
noble Baroness, Lady Parminter, the noble Lord, Lord Whitty, and the Minister, I say straightaway that I have no intention of putting them through the indignity of walking through the opposite Lobby to the one that I may go through. However, the area has been opened up for discussion, as I hoped it would be.

I start from the last point that the Minister made: he wants Flood Re to be as simple as possible. One of the points I was trying to get across is that the way in which the note from Defra sets it out was anything but as simple as possible. Indeed, the question arose as to exactly how one would paint the particular ins and outs by reference to that document. There it is: we have to make the bread with the dough that we have.

I think the Minister misunderstood me slightly, particularly in connection with business band H and post-2000 properties. That was not the main thrust of what I was trying to get across. The main thrust was picked up by the noble Lord, Lord Crickhowell, in the sense that it is that significant proportion of moderate-risk households—if I may term them that—that lie outside flood risk and therefore will be faced with individual risk assessment. However one wishes to divine the numbers in that regard, my take on it is that the number of those who lie just outside Flood Re but face an identifiably material risk is significantly greater than the number in Flood Re who will be protected. Therefore, on that basis, the safety net for the few might be seen as being at the expense of the security that once prevailed for a lot of people in the larger pool under the old statement of principles. I still think that that is an issue.

The Council of Mortgage Lenders refers consistently to its fears about affordability. The noble Lord, Lord Campbell-Savours, referred to a particular example. As he knows, I have a copy of the same letter. If you are on a limited income and having to juggle your finances and your insurance premiums go through the roof, your total repayments will rise to a critical level.

However, it would be wrong for me to go on at length. I will consider carefully what the Minister and all noble Lords have said. I am not sure that I am satisfied. Without wishing to use the somewhat threatening tones of the Terminator, I should say that I may well be back on this issue at subsequent stages of the Bill. However, in the mean time, I beg leave to withdraw the amendment.

Amendment 89 withdrawn.

Amendment 89A

Moved by ***Lord Grantchester***

89A: Clause 51, page 108, line 19, at end insert—

"( ) Prior to making any regulations under subsection (5), the Secretary of State shall require the Committee on Climate Change to provide current and projected estimates of the number of properties that would be eligible for—

(a) inclusion in the Flood Reinsurance Scheme;

(b) the value of levy required under section 53; and

(c) the likelihood of an additional levy or contributions being needed from time to time.

( ) The Secretary of State shall use the advice of the Committee on Climate Change when prescribing a target number under section 58(1)."

Lord Grantchester (Lab): My Lords, as we have seen in recent months, flooding has devastating effects on people's lives and livelihoods across all spectrums of society. Although Flood Re is a commendable scheme designed to help many who are most vulnerable to flooding, we on this side of the House think that considerable gaps exist which must be addressed.

One of our main concerns is how the scheme will operate within the 25-year span and adapt to weather conditions resulting from climate change. I am sure that noble Lords have seen today's headlines concerning the IPCC report on climate change, which said that climate change will significantly impact on our weather conditions, especially as regards flooding. The report states:

"Increasing magnitudes of warming increase the likelihood of severe, pervasive, and irreversible impacts".

We have the opportunity to respond to the threats posed by climate change, not only to ensure that we protect those who are most vulnerable to flooding but to assess how the level of flooding, and the implications of that, will change over time. As my noble friend Lord Whitty stated in Committee, Flood Re cannot be established on a totally static basis. It needs to be adaptable to a dynamic process called weather. The numbers at high risk are likely to increase, and the number of high-risk properties could treble to even more than 1 million. Climate change is a reality although some may have doubts concerning its cause. Nevertheless, it has affected, and will continue to affect, the risk of flooding, and its effects, in the future.

This amendment seeks to ensure that the Secretary of State consults the Committee on Climate Change, and uses its advice, when prescribing a target number of affected properties under Clause 58(1). The Committee on Climate Change's adaptation sub-committee, which is chaired by my noble friend Lord Krebs, is the key adviser to the Government on the number of properties likely to be at risk of flooding over the timeframes envisaged by the scheme. The Secretary of State should take credible and independent benchmarked advice from the Committee on Climate Change and provide accurate and clear targets when reporting to Parliament. At present, the number of policies eligible for Flood Re is based on the cost of the flood risk component of any policy, which is set by the insurers and will differ based on each insurer's assessment.

The Government therefore doubt how beneficial the committee's advice would be, especially on a financial basis. However, it is important to realise that the principle and purpose behind Flood Re is to help to provide affordable insurance for households in flood risk areas which might otherwise find it difficult. This is bound to change over time. It would be nonsensical to say that no advantage could be gained from a sub-committee of the Committee on Climate Change giving its observations on the changes that this scheme may have to face over time as a result of further climate change.

A lot of elements are considered when setting targets under Clause 58(1) but, at the same time, a huge element cannot be fulfilled by the insurance industry alone and one needs the input of appropriate advisers,

notably the Committee on Climate Change. I trust that the whole House can see the value of this amendment. I beg to move.

5 pm

Lord Krebs (CB): My Lords, I thank the noble Lord, Lord Grantchester, for suggesting that my committee acquires an additional job. I do not wish to speak at length about it but simply say that, were we to be asked to carry out the role he outlined, it would fit well with our current statutory duties. We already collect and analyse data on the number of properties at flood risk and the time trends. If we were to carry out this role there would be a couple of provisos. We would need access to the data held by the Government, Flood Re and the wider insurance industry. There might also be some modest resource implications for the work carried out by the committee. With those provisos I certainly think that the committee could very well carry out the job, as outlined by the noble Lord, Lord Grantchester.

The Earl of Lytton: My Lords, I shall make a short contribution on this amendment. Noble Lords will remember that at Second Reading I made the point that there was no equivalent to a Cambridge Econometrics study into the numbers that lie behind this. For that reason alone, there is some merit in this amendment to look at the hard science so that we get away from what has been described to me, by somebody who will remain nameless, as voodoo numbers that have been floating around. The absence of the degree of expertise that is regularly produced by the committee of the noble Lord, Lord Krebs, has needlessly increased doubts and concerns that might otherwise not have been there. Therefore, this is quite a good idea, although I am less clear whether I shall follow the noble Lord if he decides to divide the House on this issue.

Earl Cathcart: My Lords, when a similar amendment was debated in Committee, I took it to be only a probing amendment. Now it has been tabled again today, I am bemused, or perhaps confused, about what the Committee on Climate Change can add to the work already being done. The insurance industry, together with the Government and their agencies, has already assessed the number of properties in known flood-risk areas, particularly the number of properties that might struggle to afford flood insurance in the open market. They have also assessed the level of premiums required by council tax band, and the contribution needed from every householder—£10.50—to ensure that Flood Re has sufficient funds net of reinsurance costs from year 1.

I have no doubt that Flood Re will continually assess and reassess its assumptions, but in any event a five-year review is built into the scheme to assess whether its assumptions still hold true. This five-year review will allow Flood Re, with the agreement of the Government, to make adjustments to the levies and contributions accordingly, and I am quite sure that different areas of flood risk will be added to the pot.

I cannot understand why the noble Lord, Lord Grantchester, is moving this amendment, which will require the Committee on Climate Change to duplicate the work already done by Flood Re and by the Government and their agencies. Where will the Committee on Climate Change get its information from? The noble Lord, Lord Krebs, says that the committee does some work in this area, but it would need access to data from Flood Re, the insurance industry and the Government and their agencies, such as the Environment Agency. I do not believe that getting the Committee on Climate Change involved will add anything but will be double-handling, expensive and unnecessary.

Lord De Mauley: My Lords, I am grateful to the noble Lord, Lord Grantchester, for his amendment, which would give a formal advisory role to the Committee on Climate Change. I am also grateful to the noble Lord, Lord Krebs, for his offer of help. I absolutely agree with them on the importance of having impartial advice on the latest science, and we of course look to the committee to inform the debate on climate change.

It might be appropriate at this stage to say that I welcome the latest report from the Intergovernmental Panel on Climate Change, which is a valuable addition to the international understanding of climate change impacts and which underlines the need to adapt to changing global weather patterns. Adapting sooner will reduce the future costs of doing so. I should emphasise that, although the IPCC report did not focus on individual countries, it did identify three key risks from climate change for Europe, of which flooding was one and water security another. These findings align well with the United Kingdom's own *Climate Change Risk Assessment*, published in 2012, which identified that the biggest challenges that the United Kingdom faces will be flooding and water shortage.

As I explained in Committee, I am not clear what the noble Lord, Lord Grantchester, thinks could be gained by requiring the Committee on Climate Change to assess the data provided by insurers, which will be primarily on the pricing of risk, based on the industry's own sophisticated catastrophe modelling. The numbers of policies eligible for Flood Re will be based solely on the cost of the flood risk component of any policy, which is set by the insurers based on their assessment of the risk. This assessment will change over time and it would not be possible for the committee to provide any estimates without detailed knowledge of industry pricing models. Similarly, the value of the levy and the likelihood of any additional contribution by insurers is based on a number of financial parameters, such as the cost of reinsurance and the amount of levy collected, which will change year on year.

Given their extensive knowledge of the flood risk profile down to the local level, the Environment Agency and its equivalents in the devolved Administrations are the key advisers to government on flood risk and changing levels of risk over time. In England, the Environment Agency leads a dedicated climate-ready support service, conducts the long-term assessment of future investment needs and provides the national assessment of flood risk and flood mapping, which takes account of all types of risk.

If I understand the intention of the amendment correctly, the nub of the concern seems to be that the modelling used to assess the size of the Flood Re pool

[Lord De Mauley]
and the numbers supported needs to be robust and take into account changing risk. Flood Re's finances also need to be resilient to the inherent variability of annual flood claims and to factor in changing risk over time. The core of this is making sure that Flood Re holds enough capital to be able to cover claims up to the limit of its liabilities. Under European Solvency II legislation, which governs the insurance sector and will be in force from 1 January 2016, all insurance firms will be required to hold enough capital to cover a one-in-200-year level of claims. Therefore, Flood Re will be required under EU law to hold capital reserves at a level equivalent to its liability.

To assess what level of capital is needed, insurers have detailed catastrophe models. The modelling to assess such events must be kept up to date and will reflect any changes in levels of insured risk. This will include changes as a result of climate change. As an authorised reinsurer operating under the requirements of Solvency II, Flood Re will be bound by these same requirements.

Lord Hunt of Chesterton (Lab): When the Minister refers to one in 200 years, that assumes that the next 200 years will not be the same as the previous 200. Things are changing very rapidly. Is this estimate really based on the rapid changes of climate that we are seeing? That is the purpose of referring the matter to the Committee on Climate Change. The committee is much more aware of the dynamical changes than the industry, which is essentially using past, rather static data.

Lord De Mauley: My Lords, I agree with the objective that the noble Lord refers to. Floor Re will need to take account of climate change as part of its regulatory obligations in ensuring that it remains solvent over time. We would expect Flood Re to seek the best available advice on climate change and seeking external verification of its assumptions will form part of Flood Re's operations.

It seems that one of the other concerns underlying this amendment is whether Flood Re is based on the best available evidence, including on climate change. I assure noble Lords that the data and actuarial assumptions underlying the scheme have been independently assessed by Professor Stephen Diacon. In addition, extensive modelling, using a model that was quality-assured by the Government Actuary's Department, has been carried out by the Government using these data. Flood Re's modelling will be updated on an ongoing basis.

I again put on the record that Flood Re has been designed to be flexible and will be able to adapt to changing levels of risk over the 25-year lifespan of the scheme. Climate change projections were considered, alongside other risk factors, during the design of the policy, and the effects of climate change will continue to be considered during future levy-setting discussions. The insurance industry, with its expertise in risk assessment and forecasting, is at the forefront of assessing the impacts of climate change, because assessing risk accurately is an essential tenet of its business.

Baroness Jones of Moulsecoomb (GP): My Lords, I noticed that the Minister spoke of adaptation but he has not spoken about mitigation. Quite honestly, if you concern yourself only with adaptation, you simply will not be able to keep up with the changes. Are the Government thinking about mitigation in these circumstances as well?

Lord De Mauley: Of course, my Lords. If the noble Baroness will forgive me, I have to deal with the amendment before me, which goes primarily to the issue of adaptation. Of course we are working on mitigation as much as we can. The noble Baroness will have seen quite a lot of publicity over the weekend on that very matter. She indicates that she has not but she will believe me if I show her that there was such publicity from the Department of Energy and Climate Change.

The Association of British Insurers and a number of leading insurers have signed up to the ClimateWise principles for insurers. The six principles include a commitment to publish an annual statement of action taken and to:

"Support Government action, including regulation, that will enhance the resilience and reduce the environmental impact of infrastructure and communities".

While, for the reasons I have set out, I feel strongly that the amendment is unnecessary, I state categorically that this in no way reflects a lack of commitment from the Government on the vital matter of flood risk and climate change. During this Parliament we will be spending record amounts on managing flood risk and our new funding approach is set to attract more contributions from local partners than ever before. We have also made an unprecedented six-year commitment to record levels of capital investment in improving defences up until 2021.

5.15 pm

Noble Lords have often cited the projected increases in flood risk that were outlined in the climate change risk assessment. Although these projections must and will of course be heeded, it is important to remember that this study was indicative in nature and, crucially, did not take into account any new defences that would be built over that period. It modelled the impact of climate change based on the flood defences at the time. We are also getting better at forecasting and warning people when flooding is anticipated. The Flood Forecasting Centre combines the knowledge and experience of the Met Office and the Environment Agency to deliver longer lead times for flood alerts and more accurate, targeted information to responders. This provides people in areas at risk of flooding with more time to protect themselves and their homes from the effects of flooding. Managing flood risk is a joint effort. We are already taking steps to make this easier; for instance, by supporting a number of projects across the country which are looking at what action communities can take and by making it easier for farmers to manage watercourses to reduce the risk of flooding.

As I expect your Lordships know, businesses and homeowners affected by flooding this winter will be eligible for grants of up to £5,000 per house and per

business under the repair and renew grant to help people build in better resilience to flooding. The Government are committed to ensuring that our country is resilient to the impacts of climate change and that flood risk is managed effectively. For the reasons I have set out, I am confident that these amendments are not needed and I hope that the noble Lord will agree to withdraw his amendment.

Lord Grantchester: My Lords, it surely would be beneficial for the Secretary of State to take the advice of the Committee on Climate Change. The noble Lord, Lord Krebs, accepts the task. Target numbers should not solely be based on figures from the insurance industry and should recognise the changes in climate as a fundamental element of the change in the nature of Flood Re over the next 25 years.

Let us be clear. In relation to an earlier amendment, the noble Lord, Lord Crickhowell, quoted Hiscox which said that, of 885,000 homes in high-risk areas, around 350,000 of them will be excluded, which is around 4% of the housing stock. A more telling statistic is that this is 40% of the high-risk properties. I understand the picture is complicated by the fact that much flooding occurs outside high-risk areas. The nature and scope of flooding are changing rapidly. I am told that 80% of its claims for recent floods came from homes that Hiscox did not consider to be at risk of flood. If this is the position today, how can we hope to keep abreast of the situation over the next 25 years of this scheme without recognised, independent expertise as could be provided by the Committee on Climate Change?

I hope that the noble Earl, Lord Lytton, will reflect on the nature of change and the size of the risk of flooding over the next 25 years and will join me in the Contents Lobby. I am expecting the work of the noble Lord, Lord Krebs, to be a prophet for the future as well as an assessment of the insurance industry, which I hope will persuade the noble Earl, Lord Cathcart, that science should also have a role. Flooding and climate change are matters of huge impact to more and more people. I wish to test the opinion of the House.

5.17 pm

Division on Amendment 89A

Contents 175; Not-Contents 223.

Amendment 89A disagreed.

Division No. 1

CONTENTS

Adams of Craigielea, B.
Adonis, L.
Ahmed, L.
Alli, L.
Anderson of Swansea, L.
Andrews, B.
Bach, L.
Bakewell, B.
Bassam of Brighton, L. [Teller]
Beecham, L.
Berkeley, L.
Billingham, B.
Blackstone, B.
Boateng, L.
Borrie, L.
Bradley, L.
Bragg, L.
Brennan, L.
Brooke of Alverthorpe, L.
Brookman, L.
Browne of Ladyton, L.
Carter of Coles, L.
Chandos, V.
Clancarty, E.
Clark of Windermere, L.
Clarke of Hampstead, L.
Clinton-Davis, L.
Collins of Highbury, L.
Corston, B.
Crawley, B.
Cunningham of Felling, L.
Davidson of Glen Clova, L.
Davies of Oldham, L.
Dean of Thornton-le-Fylde, B.
Donaghy, B.
Drake, B.
Evans of Temple Guiting, L.
Falkland, V.
Farrington of Ribbleton, B.
Faulkner of Worcester, L.
Foster of Bishop Auckland, L.
Foulkes of Cumnock, L.
Gale, B.
Gavron, L.
Gibson of Market Rasen, B.
Giddens, L.
Glasman, L.
Golding, B.
Goldsmith, L.
Gordon of Strathblane, L.
Goudie, B.
Grantchester, L.
Griffiths of Burry Port, L.
Grocott, L.
Hanworth, V.
Harris of Haringey, L.
Harrison, L.
Hart of Chilton, L.
Haskel, L.
Haughey, L.
Haworth, L.
Hayman, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Henig, B.
Hilton of Eggardon, B.
Hollick, L.
Hollis of Heigham, B.
Howarth of Newport, L.
Howe of Idlicote, B.
Howells of St Davids, B.
Hoyle, L.
Hunt of Chesterton, L.
Hunt of Kings Heath, L.
Irvine of Lairg, L.
Jay of Paddington, B.
Jones, L.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jordan, L.
Judd, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kennedy of The Shaws, B.
Kerr of Kinlochard, L.
King of Bow, B.
Kinnock, L.
Kinnock of Holyhead, B.
Kirkhill, L.
Krebs, L.
Layard, L.
Lea of Crondall, L.
Leitch, L.
Levy, L.
Liddell of Coatdyke, B.
Liddle, L.
Lipsey, L.
Lister of Burtersett, B.
McAvoy, L.
McConnell of Glenscorrodale, L.
Macdonald of Tradeston, L.
McFall of Alcluith, L.
McIntosh of Hudnall, B.
McKenzie of Luton, L.
Mandelson, L.
Mar, C.
Martin of Springburn, L.
Masham of Ilton, B.
Massey of Darwen, B.
Maxton, L.
Mendelsohn, L.
Mitchell, L.
Monks, L.
Moonie, L.
Morgan, L.
Morgan of Ely, B.
Morris of Aberavon, L.
Morris of Handsworth, L.
Morris of Yardley, B.
Noon, L.
O'Neill of Clackmannan, L.
Patel, L.
Patel of Blackburn, L.
Patel of Bradford, L.
Pendry, L.
Pitkeathley, B.
Plant of Highfield, L.
Ponsonby of Shulbrede, L.
Prescott, L.
Prosser, B.
Quin, B.
Radice, L.
Ramsay of Cartvale, B.
Rea, L.
Rendell of Babergh, B.
Richard, L.
Rooker, L.
Rosser, L.
Rowlands, L.
Royall of Blaisdon, B.
Sawyer, L.
Scotland of Asthal, B.
Sherlock, B.
Simon, V.
Smith of Basildon, B.
Smith of Finsbury, L.
Snape, L.
Stevenson of Balmacara, L.
Stone of Blackheath, L.
Symons of Vernham Dean, B.
Taylor of Blackburn, L.
Taylor of Bolton, B.
Temple-Morris, L.
Thornton, B.
Tomlinson, L.
Truscott, L.
Tunnicliffe, L. [Teller]
Turnberg, L.
Turner of Camden, B.
Uddin, B.
Wall of New Barnet, B.
Warner, L.
Warwick of Undercliffe, B.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Wilkins, B.
Williams of Baglan, L.
Williams of Elvel, L.
Wills, L.
Wood of Anfield, L.
Woolmer of Leeds, L.
Worthington, B.
Young of Norwood Green, L.

NOT CONTENTS

Addington, L.
Ahmad of Wimbledon, L.
Alderdice, L.
Anelay of St Johns, B. [Teller]
Arran, E.
Ashdown of Norton-sub-Hamdon, L.
Astor of Hever, L.
Attlee, E.
Avebury, L.
Baker of Dorking, L.
Bakewell of Hardington Mandeville, B.
Balfe, L.
Barker, B.
Bates, L.
Berridge, B.
Bichard, L.
Black of Brentwood, L.
Blencathra, L.
Bonham-Carter of Yarnbury, B.
Boothroyd, B.
Borwick, L.
Bottomley of Nettlestone, B.
Bourne of Aberystwyth, L.
Bowness, L.
Brabazon of Tara, L.
Bradshaw, L.
Brougham and Vaux, L.
Browning, B.
Byford, B.
Caithness, E.
Cameron of Dillington, L.
Campbell of Surbiton, B.
Carrington of Fulham, L.
Cathcart, E.
Chidgey, L.
Clement-Jones, L.
Colville of Culross, V.
Colwyn, L.
Condon, L.
Cope of Berkeley, L.
Cormack, L.
Cotter, L.
Courtown, E.
Craigavon, V.
Crickhowell, L.
De Mauley, L.
Deighton, L.
Denham, L.
Dholakia, L.
Dixon-Smith, L.
Dobbs, L.
Dykes, L.
Eaton, B.
Eccles, V.
Eccles of Moulton, B.
Elton, L.
Erroll, E.
Falkner of Margravine, B.
Faulks, L.
Fearn, L.
Feldman, L.
Fellowes, L.
Finkelstein, L.
Finlay of Llandaff, B.
Fookes, B.
Framlingham, L.
Freeman, L.
Freud, L.
Garden of Frognal, B.
Gardiner of Kimble, L.
Gardner of Parkes, B.
Geddes, L.
Glasgow, E.
Glenarthur, L.
Gold, L.
Goodlad, L.
Greenway, L.
Grender, B.
Griffiths of Fforestfach, L.
Hamilton of Epsom, L.
Hamwee, B.
Hanham, B.
Hastings of Scarisbrick, L.
Henley, L.
Higgins, L.
Hill of Oareford, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hollins, B.
Holmes of Richmond, L.
Hooper, B.
Hope of Craighead, L.
Horam, L.
Howard of Lympne, L.
Howarth of Breckland, B.
Howe, E.
Howe of Aberavon, L.
Humphreys, B.
Hunt of Wirral, L.
Hussain, L.
Hussein-Ece, B.
James of Blackheath, L.
Jenkin of Kennington, B.
Jenkin of Roding, L.
Jolly, B.
Jones of Cheltenham, L.
Jopling, L.
Kakkar, L.
Kirkwood of Kirkhope, L.
Knight of Collingtree, B.
Kramer, B.
Laming, L.
Lang of Monkton, L.
Lawson of Blaby, L.
Leach of Fairford, L.
Lee of Trafford, L.
Lexden, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Livingston of Parkhead, L.
Loomba, L.
Lucas, L.
Luke, L.
Lyell, L.
Lytton, E.
McColl of Dulwich, L.
MacGregor of Pulham Market, L.
Maclennan of Rogart, L.
McNally, L.
Maddock, B.
Manzoor, B.
Mar and Kellie, E.
Marks of Henley-on-Thames, L.
Marlesford, L.
Mawson, L.
Mayhew of Twysden, L.
Meacher, B.
Morris of Bolton, B.
Moynihan, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Newby, L. [Teller]
Noakes, B.
Northbrook, L.
Northover, B.
O'Cathain, B.
O'Loan, B.
Paddick, L.
Palmer of Childs Hill, L.
Palumbo, L.
Parminter, B.
Perry of Southwark, B.
Popat, L.
Powell of Bayswater, L.
Purvis of Tweed, L.
Rana, L.
Randerson, B.
Rawlings, B.
Redesdale, L.
Ribeiro, L.
Risby, L.
Rodgers of Quarry Bank, L.
Rogan, L.
Roper, L.
Rowe-Beddoe, L.
Ryder of Wensum, L.
Sassoon, L.
Scott of Needham Market, B.
Seccombe, B.
Selborne, E.
Selkirk of Douglas, L.
Selsdon, L.
Shackleton of Belgravia, B.
Sharkey, L.
Sharp of Guildford, B.
Sharples, B.
Shaw of Northstead, L.
Sheikh, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shipley, L.
Slim, V.
Smith of Clifton, L.
Spicer, L.
Stedman-Scott, B.
Stewartby, L.
Stirrup, L.
Stoneham of Droxford, L.
Stowell of Beeston, B.
Strasburger, L.
Suttie, B.
Taylor of Goss Moor, L.
Taylor of Holbeach, L.
Thomas of Gresford, L.
Thomas of Swynnerton, L.
Thomas of Winchester, B.
Tonge, B.
Tope, L.
Trenchard, V.
Trimble, L.
True, L.
Tugendhat, L.
Tyler of Enfield, B.
Ullswater, V.
Valentine, B.
Verma, B.
Wakeham, L.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Walpole, L.
Warnock, B.
Wasserman, L.
Wheatcroft, B.
Wilcox, B.
Williams of Crosby, B.
Willis of Knaresborough, L.
Wilson of Tillyorn, L.
Wrigglesworth, L.
Young of Hornsey, B.
Younger of Leckie, V.

5.30 pm

Amendment 89B

Moved by ***Lord Whitty***

89B: After Clause 51, insert the following new Clause—

"Flood Reinsurance Scheme: report on the inclusion of leaseholders

(1) The Secretary of State must prepare and publish a report on the basis of the inclusion and exclusion of leasehold and tenanted properties in the FR Scheme.

(2) The report shall include a breakdown of—

(a) the total number of leasehold and tenanted properties which are in the risk areas covered by the FR Scheme;

(b) the number of leasehold and tenanted properties where the land is controlled by large multisite commercial operators;

(c) the number of leasehold and tenanted properties which are owned by smaller landlord operators; and

(d) the cost of including in the FR Scheme properties in paragraph (a) and each of paragraphs (b) and (c).

(3) The Secretary of State must lay a copy before Parliament within 6 months of this Act coming into force."

Lord Whitty: My Lords, I will try not to repeat too much of what was covered in the earlier amendment of the noble Earl, Lord Lytton, but there is obviously some overlap.

Of all the exclusions from Flood Re, that of leasehold and tenanted residential properties was, certainly out there, the most unexpected and, on the face of it, the

least logical and most inequitable. As the argument about it has gone on, it has also become the most complex and confusing. Leasehold and tenanted buildings in a flood-prone area are faced with exactly the same risks as the freehold properties next door. That is where we start from. The families and individuals who live in these properties face exactly the same problems. These are residential properties; generally, no business is conducted from them. They are people's homes. Yet the Flood Re project, which was the product of bilateral negotiations between the Government and ABI without any direct engagement with landlords, leaseholders or tenants, now appears to regard these properties and that risk as being different in kind to that of the freehold buildings in the same street. The rationale for that is that letting a property—whether long or short-term—is regarded as a business. The risk must be the same and the families will not be very different, yet they are treated entirely differently.

Since the original proposition for Flood Re, its terms have been, shall we say, "elaborated"—that is, amended in some respects or, to put it more bluntly, confused. For example, the ABI made it clear—this is a clarification, in a sense, but it confuses the issue—that contents insurance paid for by tenants and leaseholders would be part of the scheme and included in Flood Re, but obviously not the landlord's buildings insurance paid for by the landlord. That makes the arithmetic a bit more complicated. Clearly, the £10.50 levy on other households—they presumably pay the full buildings and contents insurance—does not apply to that group. That leaves a lot of grey areas. For example, one of the most serious problems for leaseholders and tenants will often be that the flood damage has caused depredation to the fittings and furniture, some of which—in the case of fittings, most of which—will be covered by the buildings insurance of the landlord. Of course, landlords have contents insurance so it is not necessarily the same position as that apparent distinction creates. The effect is that the whole situation is more blurred and complicated.

The Government have also complicated the system. Just recently, they apparently conceded that properties of three or fewer leases are in the scheme, provided that the freeholder lives on the premises. Anything more than three, or where the freeholder happens to live down the road, is outside the scheme. There is also a rumour, though it does not seem to be substantiated, that the ABI and Government were also looking at the possibility of distinguishing between small landowners or single-property landlords and large, commercial operations. Where does that all leave us?

Let us take a typical street in a low-lying riverside area of a market town. For the purposes of making us all at home and in deference to the Minister's patience in dealing with all the complications of the Bill, let us call it De Mauley Street. In De Mauley Street, no. 2 is a family house with three generations living there from two to 80. No. 4 looks and is very similar but is divided into four flats, one of which is occupied by the landlord at least occasionally. No. 6 is a house divided into four leasehold flats that have jointly bought the freehold and administer it as a leaseholder-owned company. No. 8 is, let us say, owned by a school teacher resident in London who bought the premises for her retirement and is letting it out as four student flats. No. 10 is a four-flat block owned by a commercial leasing company with four leaseholders. I am tempted to add a no. 12 that is a mixed property, but that would complicate it too far.

Under the original proposition, no. 2—the family home—is covered but nobody else. Under the ABI concession on contents insurance, no. 2 is covered and all the rest are, but for leaseholder-paid contents insurance only; everything else is not covered. Under the Government three-leases concession, nos. 2 and 4 are clearly covered, provided you can prove that the landlord actually lives at no. 4, but only the tenant-owned contents in no. 8 is covered. As I understand it, no. 6 would also be covered because the leaseholders jointly own the freehold and therefore one of them lives on the premises. In nos. 8 and 10, only the tenants' contents insurance will be covered. We are already in a very confused position.

If there were a cut-off defined by size of landlord, nos. 2, 4, 6 and 8 would be covered but not no. 10. If there happened to be a social landlord in the same street—there would probably not be in De Mauley Street—nobody would be covered because social landlords are not. Incidentally, I am not sure because we have not touched on it what the position is on mixed blocks. With the right to buy, some of the social landlord's property may well be owned by private leaseholders, who presumably ought to be covered and may well assume that they are—but are not. We have a bit of a pig's ear of a situation here. None of it is very logical. The properties are pretty much identical, the risk is the same and they thought they were all included under the pre-existing arrangement of the statement of principles.

The long-term implications of this are particularly severe. Particularly with small landlords and their tenants, if they cannot get insurance then they cannot get a mortgage or raise money for improvements. Hence the buildings deteriorate. The only way they could raise money would be to raise rents or the service charge, so tenants and leaseholders suffer directly. The area starts going downhill because the buildings appear more dilapidated and more obviously at risk. The tenant and leaseholder experience suffers, the landlords suffer and the number of new landlords prepared to invest and buy property diminishes in those areas. This is not a situation that the Government find easy to defend, but I think even the insurance industry is beginning to find some difficulty in defending it.

Having said that, as I said earlier in the previous debate, we recognise that the actuarial calculations for Flood Re are delicate and depend on various assumptions. I do not intend to unravel those calculations at this point by this amendment, but it is important that Parliament understands the position so this is a relatively modest amendment. It does not require Flood Re, the Government or the ABI to do anything directly. However, because the scheme has to have statutory backing and because to give that statutory backing Parliament needs to be convinced that it is logical, equitable and proportionate, Parliament needs to understand the consequences of including or excluding different combinations of property.

[LORD WHITTY]

The amendment therefore seeks to find that out. It does not seek to delay the process—well, not by much. However, it proposes that before we finalise the statutory instrument on this—and it will need a final statutory instrument—the Government report back to Parliament on: the number of leasehold and tenanted properties included; the number excluded; the number where the landlord is in business in a large way; the number where a landlord is in business only in a very small way—probably with a single property; and the cost that would arise from including each of those categories in the Flood Re proposition. I am leaving the dividing line between large and small largely up to the Government, but we need to have a clear one.

The information that that report would show to Parliament would mean that we, and interested parties, could have a meaningful discussion before the consultation started—or within the consultation—on the statutory instrument, which I am assuming, because this is supposed to start in 2015, would have to be within a very few months. Without that information, we in Parliament are in danger of giving the go-ahead to what appears to every rational observer to be a seriously inequitable, complicated and illogical scheme, which we are about to back by legislation. I do not need to tell Ministers that that situation is probably judicially reviewable.

This amendment therefore asks the Government to give us the facts before we finally go down the road. In a way, it is not delaying this legislation going through, but it would allow us to face up to the facts before the final statutory instrument is carried. At the moment, frankly, we do not have those facts. The Minister referred to fanciful figures. A number of very reputable insurance companies and others have bandied about a number of different figures. I do not know the total number that fall into each of these categories nor, I suspect, does the Minister or the ABI. However, we need to know—at least approximately—and we need to know the cost consequences for them, for the scheme and for those in the rest of society who are subsidising this scheme what the effect would be. Therefore, we do need that information. This amendment would allow the Government, without holding everything up, to get that information and to report back to Parliament. In my view it is pretty obvious that Parliament needs to know. I beg to move.

Lord Cameron of Dillington: My Lords, this is a very mild amendment to which I certainly would have added my name if I had become aware of it in time. There is no doubt that the exclusion of the leasehold and rental sector is the worst lacuna of the current Flood Re scheme. I understand the original political thought process—that professional landlords should not be helped to overcome their flood insurance problems by those who live in band A properties, for example. Of course, that political thought process is a fairly simplistic and stereotypical understanding of the average landlord. This is an important fact: 78% of all landlords own a single dwelling for rent.

As noble Lords know, there are many professions where a dwelling goes with the job. In my part of the world, farm work is the most common example. Many farm workers and tenant farmers buy a house to retire to, and, of course, they let it while they are still working, largely to help with the mortgage. It is perfectly sensible retirement planning and the Government should encourage it. Furthermore, perhaps it is a typical English aspiration, but many people currently living and working in cities have a dream of buying a house in the country and retiring there—similar to the farm workers who I have just mentioned—and they will let it in order to help pay the mortgage on it.

This Bill does not recognise these dreams of ordinary—well, the noble Lord, Lord Whitty, mentioned schoolteachers, but it could have been anyone really: secretaries, nurses, anybody. It does not, to borrow a phrase from Yeats, tread softly on their dreams. They are excluded from this scheme. Surely these are the people for whom this scheme should be designed—people whose mortgage companies will insist on full insurance, including flood insurance. But what about those who cannot afford a house, in the country or elsewhere, and buy a flat? I cannot think of a more appropriate person to benefit from this scheme. However, along with 60% of the other households, they will almost certainly be excluded from this scheme while at the same time contributing to it.

I will not give the rest of the speech on leaseholders and flat owners because that has already been very well covered by the noble Lord, Lord Whitty. However, it seems strange to exclude householders whose only error has been to choose to live in a flat rather that a full-blown house. It seems unjust to me. A much more sensible cut-off point for the application of Flood Re would have been owners of, say, two, three or four let properties. However, all that apart, this amendment will at least ensure that we have a full understanding of the sort of owners, leaseholders and tenants whose property is being excluded and what they could have contributed to the scheme if they had been included. As I say, I think that this is a very mild amendment, merely touching on a problem that is a major shortcoming in the Bill. I hope that the Minister will look kindly on it.

5.45 pm

Earl Cathcart: My Lords, I congratulate the noble Lord, Lord Whitty, on his use of De Mauley Street. I think it was clear what he was saying. It seems to me that if you have a property to let, as landlord you should buy the insurance. It might not just be the bog standard property and contents insurance that you buy: you will probably also buy owners' liability insurance, public liability insurance and any other commercial insurance that you might buy as a landlord. That is one reason why they are excluded from Flood Re, because we are not talking like for like. The owner occupier in No. 2 De Mauley Street, for instance, will buy their own bog standard property and contents insurance. As a landlord you buy other things as well, which makes it a commercial risk.

I too read somewhere that to qualify for Flood Re, you had to live in the property. Therefore, I come to the amendment spoken to by the noble Lord, Lord Cameron, regarding which he said that 78% have one property, which they let. If the occupier has to buy the

insurance, why does not the landlord get the occupier to buy the property and contents insurance, which would qualify it for Flood Re? If the landlord then wanted to buy his public liability or owners' liability insurance, he could buy it as a separate policy. That might be one way in which a number of these cases can get into Flood Re.

Lord Cameron of Dillington: I understand what the noble Lord is saying but the problem is that the tenant does not have an insurable interest. He cannot insure the property. No insurance company would accept his insurance of a property in which he is only a tenant.

The Earl of Lytton: My Lords, I too would have put my name to the amendment had I known about it in time. I apologise to the House and to the noble Lord, Lord Whitty, for not being in my place when he introduced it, but I understand a great deal about the background to it from previous discussions with him. Whatever we do with the cut-off point between what is in Flood Re and what is outside it, it is important that it is reliable, consistent, transparent and fair. The outcome must not be capricious or so asymmetric that people lose trust in it, because I am a believer that credibility is at the centre of Flood Re's success.

One thing in particular stands in stark contrast with that. The commonhold units' owners do not themselves own the fabric of the building: it is owned by the commonhold association. I asked myself, if there is a difference in personality, in legal entity, why is it that long leaseholders of the conventional sort in a similar building—with the freehold being the common parts and the fabric of the building owned by someone else—should not benefit? Why is there a blanket inclusion of commonhold but a blanket exclusion of leasehold? I find that difficult to understand, particularly because, under the Leasehold Reform, Housing and Urban Development Act, the intention was to try to get leasehold nearer to freehold, to remove the segregation between the freehold interest and the leasehold interest which for years has dogged the sector and allowed all sorts of abuses to occur and produced all sorts of disadvantage in funding, growth and reward for that investment.

It seems to me that the convenience of insurers is being put ahead of the public interest. There probably has to be a cut-off point somewhere in the system. It is not for me to speculate on what the actuarial approach would be to that, but it seems that where it is being placed at the moment defies objective analysis on the points of consistency and transparency that I mentioned. I am very inclined to support the amendment.

Lord De Mauley: My Lords, I am grateful for the opportunity provided by the noble Lord, Lord Whitty, to discuss the eligibility of leasehold and tenanted properties for Flood Re. In Committee, I said that we would take more time to look at the issue for leaseholders with the ABI and that we would provide further information on the scope of Flood Re.

We have developed with the ABI a briefing note that sets out the scope of Flood Re and covers proposed new subsection (1) in the noble Lord's Amendment 89B. In summary, the note, which is available online, confirms that domestic contents policies will be available to all under Flood Re, regardless of whether properties are leasehold or freehold, rented or owner-occupied, except those properties in band H and those built from 1 January 2009.

Leasehold houses will also be in scope of Flood Re, provided that the leaseholder lives in the property and purchases the buildings insurance in his or her own name. Flats will be eligible, provided that there are not more than three flats in the building and that the freeholder, or one of those with a share of the freehold, lives in the building and takes out the cover. Setting the eligibility to a maximum of three flats reflects the general limit that the insurance market is willing to cover under a domestic or personal lines policy. There is already a competitive market for insurance for properties with four or more units, which we expect to continue. As I have already said, we and the ABI will monitor the market to ensure that that remains the case. We believe that a significant proportion of the leasehold sector will be in scope of Flood Re, but I should emphasise here that we expect most properties will not need to be in Flood Re and will find better prices through normal routes.

The noble Lord, Lord Whitty, suggests that that is all very complicated and does not go far enough. We have looked carefully at that with the ABI. Flood Re should be available only to those who need it. Indeed, in an earlier debate the noble Lord to some extent agreed with that. The ABI has assured us that the same systemic issues relating to availability and affordability do not exist for larger-scale leaseholders and commercial managing agents as in the domestic home insurance market.

The insurance industry has recently written to assure the Government that it does not expect there to be widespread issues over access to the insurance market for those parts of the leasehold sector which will be out of scope of Flood Re, which I am sure that noble Lords will agree is very welcome reassurance. The industry is clear that there is plenty of capacity to continue to provide insurance on a competitive basis.

I turn to the tenanted sector. As we discussed at some length in Committee, landlord insurance is out of scope for Flood Re for buildings cover. Landlord insurance is classified by the insurance industry as commercial. However, again, we have been assured by the industry that the majority of landlords will be able to find a more competitive rate outside Flood Re.

I emphasise that the proposed scope was not developed on the basis of cost: it is the nature of the policy which is key. The Government are clear that it would not be appropriate for landlords, who gain commercially from renting properties, to benefit from a subsidy on other households.

Lord Campbell-Savours: The Minister referred to the fact that the ABI has given assurances that that insurance will be available at competitive rates. Were they oral or written assurances? If they were written, is it possible for those assurances in writing to be put

[Lord Campbell-Savours]
into the public domain so that interested parties can examine the assurances that the ABI has given to the Government?

Lord De Mauley: That is a very good point, my Lords, and I will see what I can do.

The Government collect certain information and data as part of the English housing survey. However, the granularity of data on the different parts of the sector sought under the amendment is not currently available. Data are collected from owner-occupied homes on whether the home is owned leasehold or freehold, but not from homes that are let in the private rented sector or from the social rented sector. In the past, those partial data have been used to estimate the total number of leasehold domestic properties in England across all tenures, although I understand that the methodology used is currently under review.

The 2011 census provides some information about whether people live in a flat or a house and whether they own it or rent it, but did not collect data on the number of leasehold domestic properties. There are also no data sets that would distinguish between smaller landlords and large multisite commercial operators, as far as we are aware.

The insurance industry could provide information which would help with a general estimate of the cost of including additional properties to Flood Re. However, the value of that would be limited without the numbers in each of the categories specified in the amendment and how many of those are at sufficient flood risk to be ceded to Flood Re. We have looked at a range of potential address-level data sets to try to map their records to flood risk, but again the data are unsuitable.

The conclusion has to be that what is specified in the amendment is unachievable to any degree of accuracy. It would also be only a snapshot in time and would quickly become out of date. The Government and the ABI have committed to monitoring the market—including for both domestic and business premises.

The noble Lord, Lord Whitty, suggested that there had been no direct engagement with the property sector. We consulted publicly on our proposals and received representations from the property sector. Indeed, I met representatives of the leasehold sector and asked them to come forward with evidence that the same problems exist in the commercial insurance market. I must say that evidence received to date is very limited, but that offer remains.

I therefore argue that reporting as set out under the amendment is not needed, as the market monitoring already planned will provide data on how the market is operating. I assure noble Lords that we will keep this matter under careful review. As I said, the Government also plan to publish the findings and make them available to Parliament.

The noble Lord, Lord Cameron, asked why we cannot treat landlords of just one or two properties differently from the more large-scale landlords. We have not heard evidence of widespread problems for smaller landlords in securing affordable insurance and there is therefore no apparent need to extend the scope of Flood Re to include them. Furthermore, it would not be practical to ask insurers to try to distinguish between different types of landlord. With the exception of policies purchased in a block or those purchased under a business name, many insurers would find it difficult to tell whether landlords have a large or a small property portfolio. This is not just about pricing policies: it would also make it more difficult for insurers to work out the market share when paying their share of the levy.

Turning back to the point made by the noble Lord, Lord Campbell-Savours, I understand that it was made in a letter to the Secretary of State, and I can provide a copy of that to noble Lords who have participated in this debate. That might be helpful.

For the reasons that I have set out, I hope that the noble Lord will be prepared to withdraw his amendment.

6 pm

Lord Whitty: My Lords, I recognise some of the things that the Minister is saying, but the fact is that that is not the perception out there. I do not mean the perception of somebody who has read only a few articles in their local paper or the national press; I mean the perception of the representatives of small landlords. They do not think that is the position. They do not think it is easy for them to get insurance for properties within the risk area. The representatives of the Council of Mortgage Lenders are extremely worried about being asked by owners of leasehold and tenanted properties to advance mortgages against properties that it is difficult to insure. It is not even the perception of the managing agents, who by and large have the larger properties, who also think that they are in some difficulty. As it happens, I met all three groups first thing this morning. They remain unconvinced about what is essentially the Government's line.

If you look at this from the point of view of the leaseholders and the tenants—let us leave aside short-term tenants for the moment, although I echo the point raised by the noble Lord, Lord Cameron of Dillington, whose support I am very grateful for on this, that most tenanted properties are actually owned by a landlord who has a single property—they have a difficulty in raising insurance in the first place, and certainly for property within a flood risk area they will find even greater difficulties now.

Probably the most acute difficulty, though, is for those who are in long leases and are leaseholders because of the nature of the freehold relationship to their property, but who for all other intents and purposes regard themselves as home owners. They have a long mortgage on the leasehold property, they conduct all their affairs, including their insurance, on their own part of that property, and they do not regard themselves as being any different in status, vulnerability or risk from the people next door who are freehold owner-occupiers.

There are many people in that situation in many parts of the country, including some that are subject to serious flood risk. For them, the message is going out, "The next-door neighbour is covered but you are not, because you own"—as the noble Lord, Lord Cameron of Dillington, said—"a flat and not a house". They may be on a very long lease, but, nevertheless, they are differentiated in this respect.

As I say, this amendment does not seek to rectify, turn over or redefine the boundaries; it simply asks that Parliament should know what the situation is before it finally signs off this scheme. It may be that everything the Minister has said is upheld in the feedback, but we have had representations from both landlords and leaseholders of property who, whether they have a property with 12 flats or three flats, have the same problem and do not believe that they are going to be covered. They think that the Government and the insurance industry are letting them down because they are not covered.

At least Parliament should know what the situation is. That is all my amendment asks. If the Government are not prepared at least to accept that they will formally report back on this to Parliament before the next stage, or before an SI is produced, for the sake of all those people out there who think that they are being treated inequitably, illogically, unfairly and non-transparently, I have to ask the opinion of the House on this amendment.

6.04 pm

Division on Amendment 89B

Contents 190; Not-Contents 209.

Amendment 89B disagreed.

Division No. 2

CONTENTS

Adams of Craigielea, B.
Adebowale, L.
Alli, L.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Hill Top, B.
Bach, L.
Bakewell, B.
Bassam of Brighton, L. [Teller]
Beecham, L.
Berkeley, L.
Bichard, L.
Bilimoria, L.
Billingham, B.
Blackstone, B.
Boateng, L.
Borrie, L.
Bradley, L.
Bragg, L.
Brennan, L.
Brooke of Alverthorpe, L.
Brookman, L.
Browne of Belmont, L.
Browne of Ladyton, L.
Cameron of Dillington, L.
Campbell of Surbiton, B.
Carter of Coles, L.
Chandos, V.
Clancarty, E.
Clark of Windermere, L.
Clarke of Hampstead, L.
Clinton-Davis, L.
Collins of Highbury, L.
Colville of Culross, V.
Corston, B.
Crawley, B.
Curry of Kirkharle, L.
Davidson of Glen Clova, L.
Davies of Oldham, L.
Dean of Thornton-le-Fylde, B.
Donaghy, B.
Donoughue, L.
Drake, B.
Eatwell, L.
Elder, L.
Erroll, E.
Evans of Temple Guiting, L.
Falkland, V.
Farrington of Ribbleton, B.
Faulkner of Worcester, L.
Foster of Bishop Auckland, L.
Foulkes of Cumnock, L.
Gale, B.
Gavron, L.
Gibson of Market Rasen, B.
Giddens, L.
Glasman, L.
Golding, B.
Goldsmith, L.
Gordon of Strathblane, L.
Grantchester, L.
Greenway, L.
Griffiths of Burry Port, L.
Grocott, L.
Hanworth, V.
Harris of Haringey, L.
Harrison, L.
Hart of Chilton, L.
Haskel, L.
Haworth, L.
Hayman, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Henig, B.
Hilton of Eggardon, B.
Hollick, L.
Hollins, B.
Hollis of Heigham, B.
Howarth of Breckland, B.
Howarth of Newport, L.
Howells of St Davids, B.
Howie of Troon, L.
Hoyle, L.
Hunt of Chesterton, L.
Hunt of Kings Heath, L.
Hutton of Furness, L.
Irvine of Lairg, L.
Jones, L.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jordan, L.
Judd, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kennedy of The Shaws, B.
Kerr of Kinlochard, L.
King of Bow, B.
Kinnock, L.
Kinnock of Holyhead, B.
Kirkhill, L.
Krebs, L.
Laming, L.
Layard, L.
Lea of Crondall, L.
Leitch, L.
Levy, L.
Liddell of Coatdyke, B.
Liddle, L.
Lister of Burtersett, B.
Low of Dalston, L.
Lytton, E.
McAvoy, L.
McConnell of Glenscorrodale, L.
Macdonald of Tradeston, L.
McFall of Alcluith, L.
McIntosh of Hudnall, B.
McKenzie of Luton, L.
Mandelson, L.
Martin of Springburn, L.
Masham of Ilton, B.
Massey of Darwen, B.
Maxton, L.
Meacher, B.
Mendelsohn, L.
Mitchell, L.
Monks, L.
Moonie, L.
Morgan, L.
Morgan of Ely, B.
Morgan of Huyton, B.
Morris of Handsworth, L.
Morris of Yardley, B.
O'Loan, B.
O'Neill of Clackmannan, L.
Patel of Blackburn, L.
Patel of Bradford, L.
Pendry, L.
Pitkeathley, B.
Plant of Highfield, L.
Ponsonby of Shulbrede, L.
Prescott, L.
Prosser, B.
Quin, B.
Radice, L.
Ramsay of Cartvale, B.
Rea, L.
Rendell of Babergh, B.
Richard, L.
Rooker, L.
Rosser, L.
Rowlands, L.
Royall of Blaisdon, B.
St John of Bletso, L.
Sawyer, L.
Scotland of Asthal, B.
Sherlock, B.
Simon, V.
Smith of Basildon, B.
Smith of Finsbury, L.
Smith of Gilmorehill, B.
Snape, L.
Soley, L.
Stevenson of Balmacara, L.
Stoddart of Swindon, L.
Stone of Blackheath, L.
Symons of Vernham Dean, B.
Taylor of Bolton, B.
Temple-Morris, L.
Thornton, B.
Tomlinson, L.
Truscott, L.
Tunnicliffe, L. [Teller]
Turnberg, L.
Turner of Camden, B.
Uddin, B.
Wall of New Barnet, B.
Warner, L.
Warwick of Undercliffe, B.
Watson of Invergowrie, L.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Wilkins, B.
Williams of Elvel, L.
Wills, L.
Wood of Anfield, L.
Woolmer of Leeds, L.
Worthington, B.
Young of Norwood Green, L.

NOT CONTENTS

Addington, L.
Ahmad of Wimbledon, L.
Alderdice, L.
Anelay of St Johns, B. [Teller]
Arran, E.
Ashdown of Norton-sub-Hamdon, L.
Astor of Hever, L.
Attlee, E.
Avebury, L.
Bakewell of Hardington Mandeville, B.
Balfe, L.
Barker, B.
Bates, L.
Benjamin, B.
Berridge, B.
Black of Brentwood, L.
Blencathra, L.
Bonham-Carter of Yarnbury, B.
Borwick, L.
Bottomley of Nettlestone, B.
Bourne of Aberystwyth, L.
Bowness, L.
Brabazon of Tara, L.
Bradshaw, L.
Brougham and Vaux, L.
Browning, B.
Byford, B.
Caithness, E.
Carrington of Fulham, L.

Cathcart, E.
Chidgey, L.
Clement-Jones, L.
Colwyn, L.
Condon, L.
Cope of Berkeley, L.
Cormack, L.
Cotter, L.
Courtown, E.
Craigavon, V.
Crickhowell, L.
Dannatt, L.
De Mauley, L.
Deighton, L.
Denham, L.
Dholakia, L.
Dixon-Smith, L.
Dobbs, L.
Dykes, L.
Eaton, B.
Eccles, V.
Eccles of Moulton, B.
Elton, L.
Falkner of Margravine, B.
Faulks, L.
Fearn, L.
Fellowes, L.
Finkelstein, L.
Finlay of Llandaff, B.
Fookes, B.
Framlingham, L.
Freeman, L.
Freud, L.
Garden of Frognal, B.
Gardiner of Kimble, L.
Gardner of Parkes, B.
Geddes, L.
Glasgow, E.
Glenarthur, L.
Gold, L.
Goodlad, L.
Grender, B.
Griffiths of Fforestfach, L.
Hamilton of Epsom, L.
Hamwee, B.
Hanham, B.
Hastings of Scarisbrick, L.
Haughey, L.
Henley, L.
Higgins, L.
Hill of Oareford, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Holmes of Richmond, L.
Hooper, B.
Hope of Craighead, L.
Horam, L.
Howard of Lympne, L.
Howe, E.
Howe of Aberavon, L.
Howe of Idlicote, B.
Humphreys, B.
Hunt of Wirral, L.
Hussain, L.
Hussein-Ece, B.
Inglewood, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Jenkin of Roding, L.
Jolly, B.
Jopling, L.
Kirkham, L.
Kirkwood of Kirkhope, L.
Kramer, B.
Lamont of Lerwick, L.
Lang of Monkton, L.
Leach of Fairford, L.
Lee of Trafford, L.
Lexden, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Livingston of Parkhead, L.
Loomba, L.
Lucas, L.
Luke, L.
Lyell, L.
McColl of Dulwich, L.
MacGregor of Pulham Market, L.
McNally, L.
Maddock, B.
Maginnis of Drumglass, L.
Manzoor, B.
Mar, C.
Mar and Kellie, E.
Marks of Henley-on-Thames, L.
Marlesford, L.
Mayhew of Twysden, L.
Morris of Bolton, B.
Moynihan, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Newby, L. [Teller]
Newlove, B.
Noakes, B.
Northbrook, L.
Northover, B.
O'Cathain, B.
Paddick, L.
Palmer of Childs Hill, L.
Palumbo, L.
Pannick, L.
Parminter, B.
Patel, L.
Perry of Southwark, B.
Popat, L.
Powell of Bayswater, L.
Purvis of Tweed, L.
Rana, L.
Randerson, B.
Rawlings, B.
Rennard, L.
Ribeiro, L.
Risby, L.
Roberts of Llandudno, L.
Rodgers of Quarry Bank, L.
Rogan, L.
Roper, L.
Rowe-Beddoe, L.
Ryder of Wensum, L.
Sassoon, L.
Scott of Needham Market, B.
Seccombe, B.
Selborne, E.
Selkirk of Douglas, L.
Selsdon, L.
Shackleton of Belgravia, B.
Sharkey, L.
Sharp of Guildford, B.
Sharples, B.
Shaw of Northstead, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shipley, L.
Smith of Clifton, L.
Spicer, L.
Stedman-Scott, B.
Stirrup, L.
Stoneham of Droxford, L.
Stowell of Beeston, B.
Strasburger, L.
Suttie, B.
Taylor of Goss Moor, L.
Taylor of Holbeach, L.
Thomas of Gresford, L.
Thomas of Swynnerton, L.
Thomas of Winchester, B.
Tonge, B.
Tope, L.
Trenchard, V.
Trimble, L.
True, L.
Tugendhat, L.
Tyler, L.
Tyler of Enfield, B.
Ullswater, V.
Verma, B.
Wakeham, L.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Walpole, L.
Wasserman, L.
Wheatcroft, B.
Williams of Crosby, B.
Willis of Knaresborough, L.
Wilson of Tillyorn, L.
Wrigglesworth, L.
Younger of Leckie, V.

6.16 pm

Clause 53: Scheme funding

Amendment 90 not moved.

Amendment 90ZA

Moved by ***Baroness Parminter***

90ZA: Clause 53, page 108, line 43, at end insert "and this is to include guidance about the application of surplus funds during the period of operation of the scheme to support uptake of resilience measures by householders"

Baroness Parminter (LD): My Lords, the aim of Flood Re is to provide affordable insurance for flooding and to transition to risk-reflective pricing. If a surplus of funds were built up, that could help to manage flood risk down by encouraging householders to adapt to the impacts of climate change and flooding.

Funding for Flood Re will be via a levy, set as part of the five-yearly review by government. The Bill makes clear what would happen if there was a deficit—namely, a further levy on the insurance companies—but it does not make clear what would happen if a significant surplus built up. In Committee I outlined the potential, on the basis of the Government's own figures, that at the end of year 1 it could have at least £100 million in reserves. In the early years, the aim would be to build this figure up to meet potential claims. The maximum reserves that Flood Re should need in any one year, after paying for reinsurance and administration, is an amount equal to the reinsurance policy threshold. This is due to be £250 million. If there is a sizeable flood during the lifetime of Flood Re it will need to pay the first £250 million, with the rest paid for by a claim on the reinsurance policy. It will then need to build up the reserve again the following year.

Ministers and insurers may well want to build up a slightly higher reserve in order to protect against a possible deficit if there are two bad years in a row, so there may be no surplus, as my noble friend Lord Cathcart rightly pointed out in Committee. Over the lifetime of the scheme, though, there may be a build-up of reserves if there are fewer claims than anticipated. Given that the ABI is now saying that the number of households it expects to be underwritten by Flood Re is 350,000 rather than the original figure of 500,000, which was the basis of the Government's impact assessment, that is certainly possible. The ABI made it quite clear to me that its intention was for any surplus to be returned to ABI members. We need to ensure that Flood Re does not inadvertently lead to insurers

profiteering from excess levy income being returned to them. It may not be passed back to customers automatically but could lead to a reduction in the future levy on bills. It would be better for the levy to be reduced in advance if a reasonable reserve has already been built up or, better still, for the excess to be spent on managing down the flood risk. I am envisaging paying not for flood defences but for things like grants to low-income households for home flood protection measures. I would not want to pin down in detail in this legislation what levels of surplus of reserves Flood Re should be able to build up or what will happen in those circumstances but a marker needs to be put down that, if significant reserves are secured, such reserves may be used to incentivise Flood Re policyholders to fund household resilience measures.

This amendment, which I am glad to say has the support of the noble Lord, Lord Krebs, allows this issue to be explored by the Government and Flood Re administrators during their five-yearly review of the scheme. It gives flexibility but encourages managing down flood risk if, and only if, significant surpluses are built up. I beg to move.

Lord Krebs: My Lords, as the noble Baroness, Lady Parminter, has said, this amendment is concerned with the possible surplus or cash reserves that Flood Re might build up. We have to recognise that although Flood Re is being designed as an integral part of the insurance industry it will be a public body spending public money and will operate on a not-for-profit basis. The noble Baroness, Lady Parminter, has indicated and the Government's own figures suggest that there might be reserves of more than £100 million after one year. If that surplus exceeds the amount that is required to cover claims in any one year—again, the noble Baroness indicated a figure of £250 million—it would seem perfectly reasonable for that money to be used to manage down Flood Re's own exposure to future claims and it could do so in a highly cost-effective way. This is about value for money. One estimate is that £4,000 spent on a property could prevent a number of claims on Flood Re averaging £45,000 a time, so the return on investment is going to be enormous.

The adaptation sub-committee which I chair has estimated that there are 190,000 properties in England where fitting flood-protection measures would be cost-effective, but progress in fitting them at household level has been very slow. In fact, the rate of uptake would need to increase by a factor of 20 to fit all such measures within the lifetime of Flood Re. This amendment recognises the potential to do more to protect high-risk households and the opportunity that the surplus reserves might represent. Investing in resilience now would leave high-risk households better able to afford flood insurance once Flood Re has withdrawn and, rather than adding to the cost of the levy, investing in this way promises to help minimise the costs of Flood Re over the lifetime of the policy.

Lord Campbell-Savours: The noble Lord referred to 140,000 properties. How would they be prioritised? How would they be selected to be subject to the benefit of this measure?

Lord Krebs: The figure I mentioned was in fact 190,000 properties. I do not have the detail of how they would be prioritised, but over the lifetime of Flood Re it is hoped that all 190,000 could be fitted with household protection measures that would increase their resilience against future flood risk.

As I was saying, investing the surplus from Flood Re would help to minimise its costs over the lifetime of the policy. To achieve that, Flood Re will have to invest in flood protection to reduce future claims. As this amendment indicates, guidance is needed on whether and how surpluses might be used and under what circumstances investment in household resilience should be pursued. So it is not prescriptive; it is just saying that guidance should be included. I think that perhaps answers the noble Lord's question.

Lord Campbell-Savours: My Lords, I am taken a bit by surprise by this amendment. I had not intended to speak at all but as the noble Lord was developing his arguments I began to realise what the value of this could be. I have a letter here from Keswick Flood Action Group which I referred to in Committee. It makes recommendations on the question of the reinstatement of homes and resilience. I want to read on to the record what it says because most of my contributions on this Bill up to now, certainly in Committee, have drawn on information that has been brought to me by people who have been flooded, because very often they know more than anyone else. Lynne Jones, chair of Keswick Flood Action Group, says that the Government should,

"pass legislation so that insurance companies are required to reinstate homes in a flood resilient/resistant way. Insurance companies, quite rightly, will not pay for 'betterment' but these days they have to reinstate with insulation to regulatory standards, even if no insulation was present before, because they are required to do so by law. So why can't flood measures be treated in the same way?".

She goes on to make a very simple proposition which, when I think of the flooded properties that I surveyed when I was an MP, seems to me quite logical:

"For example dropping the electrics down from the first floor so raised sockets rather than rewiring from ground up; replacing wood floors with solid waterproof concrete etc".

Then she goes on to suggest that the Government,

"provide people with independent advice on property reinstatement, maybe via Local Authorities' Buildings Regulations Officers".

If there is a surplus, why not consider spending some of it in this sort of area? She goes on to say:

"What people need is knowledgeable counsel from somebody who isn't going to profit from the works. Flood victims are the target for every rogue trader under the sun post-flood and not everyone knows what products are available/would most suit their needs. Such decisions come at a time when they are exhausted, stressed and suffering financial hardship, they are truly at their most vulnerable".

As I said, when I was an MP and also afterwards I visited homes where people had been flooded and we know there is tremendous distress. If there are these surpluses, perhaps we should ask whether they can be deployed as part of the process of advising people so that the rogue traders do not go in and do the work and rip people off. That is a far more professional approach. The simple idea of feeding electric wiring

[Lord Campbell-Savours]
upstairs as against downstairs seems absolutely elementary. I wonder how many properties have been done up with grants from government and bills paid by insurance companies over recent years where those very simple, remedial steps to dealing with problems in particular homes have not been taken.

In many ways I think this is a very interesting amendment. I had not really thought of the surpluses. We do not want to waste money but surely it can be used in such a way as to promote the policy of developing actions for resilience.

Earl Cathcart: My Lords, I am afraid I cannot support this amendment. To me it shows a misunderstanding of the role of insurance more generally and of Flood Re in particular, which must build up its funds from premiums to cover current and future losses smoothly. The scheme already has five-yearly reviews so that all assumptions can be reworked and contributions adjusted, either upwards or downwards. Diverting funds into the totally separate adventure of pre-emptive risk mitigation is not a function of insurance and nor should it be for Flood Re. The analogy is asking car insurers to invest in better road signs or road infrastructure. It might help mitigate the risks but it is not the role of the underwriting industry; it is the role of government, national or local.

6.30 pm

Lord Shipley: My Lords, I shall put a contrary view to that just put by the noble Earl, Lord Cathcart. There are two important issues in this amendment. The first is whose money is being paid out through the Flood Re system, and therefore what happens to it if there is a surplus, and the second is what safeguards can be put in place to ensure that households at high risk undertake prevention works and do not just assume that if there is a flood in their property others will pick up the cost that can be paid for through Flood Re insurance.

We debated this in Committee. I have concluded that if there is a surplus, it is not just the Treasury's money nor just the insurers' money; it is the public's money because the public have paid the levy. In that sense, it becomes primarily the Treasury's money because it funds public spending. However, if the public are contributing through a household levy, they have a right to expect that those potentially in receipt of other people's money do work to their own property. The question then is whether this scheme, particularly if it is in surplus, should help towards that objective.

I think we are going to find that this is not just a time-limited scheme. I recognise there are regular, five-year reviews. It is a time-limited scheme. At the end of it, what will happen if there is a surplus left in the scheme? I would like to think that in that timescale, we would have secured major improvements to flood protection of individual properties in high-risk areas. For that reason, asking the Government to include guidance about the application of surplus funds during the operation of the scheme to support the uptake of resilience measures by householders is perfectly reasonable.

Lord Whitty: My Lords, I have some slight difficulties with this amendment. I understand the concept and, in a sense, I want the outcome. The role of the insurance companies' relationship with householders—whoever they may be, in the light of the previous debate—in improving the resilience of their properties is an important dimension of this scheme. Some of it is deliverable through the normal relationship between insurance companies and their premium payers, in the sense that a condition of the insurance or of the level of excess on the insurance can be that they put in such-and-such a resilience measure or that they meet certain standards in the property. The insurance companies can in some circumstances go further than this and make a grant towards them. The problem with the amendment is that it feels too open-ended.

To answer the question about whose money it is, the money is contributed by the rest of us. It is the £10.50, or whatever it turns out to be, that the rest of the population puts into looking after high-risk properties. There is therefore a need for due diligence that that money does not go to diffuse purposes. If this amendment would lead to significant sums of money in surplus years being used in a different way, then issues of accountability arise. A more tightly worded amendment would probably meet with my approval, but people reading this could think that, if you have a surplus of £500 million after 10 years, you should be spending it directly on grants to householders in risk-prone areas to improve individual or communal flood defences. I do not think that is what is meant, but the wording could be susceptible to that meaning. I therefore support the general concept, but I do not think this amendment achieves it in a way that is easily defensible to home owners who are contributing to the financing of this scheme.

Lord De Mauley: My Lords, I thank my noble friend Lady Parminter for her amendment which deals with a very important subject. I thank all other noble Lords who spoke to it.

Actions taken by government, communities, individuals and businesses to reduce levels of flood risk are indeed the best and most cost-effective way to secure affordable insurance and value for money from Flood Re in the long term. In addition to the substantial levels of investment in flood defences that I referred to in an earlier debate today, we are also taking action to ensure that households are supported to improve their property-level resilience. For example, grants of up to £5,000 are available for households and businesses that have flooded this winter, and applications open tomorrow. In addition, there are community projects in which we are investing more than £4 million over two years in order to learn about the most effective strategies to drive community resilience to flooding. Nevertheless, I recognise my noble friend's intention to see Flood Re's role reflected in the Bill.

Reserves that build up during the lifetime of Flood Re will primarily be used to pay flood claims in the bad years. Flood events are by their nature unpredictable, so while it may be possible that Flood Re would have a number of good years in which it built up reserves, it is equally possible that a run of bad years with heavy flooding could wipe out any reserves built up within

Flood Re. As such, it is not easy to identify surplus funds, and any decision about Flood Re's reserves will need to involve judgment about the level of cover needed for the unpredictable risks it bears.

Added to this, as an authorised re-insurer, Flood Re will be required by the Prudential Regulation Authority to hold certain minimum levels of capital. Any commitment by Flood Re to spend a certain portion of reserves in a certain way—for example, on betterment or resilience—would necessarily increase the amount of capital it is required to hold on an ongoing basis, having an impact on the cost of the scheme and ultimately the levy.

It may well be that, in due course, the Flood Re administrator decides that investments of the sort my noble friend would like to see present the best way of Flood Re fulfilling its obligations to manage the transition and act in the public interest. However, these are choices that are difficult to make before the scheme is established or has any sort of track record. Nothing in the Bill precludes this.

Alternatively, in due course, Flood Re may decide, in consultation with government, that the best use of any surplus is to reduce the level of the levy, thereby helping to deliver affordability for all policyholders, not just those in Flood Re. We would not, at this stage, wish to see Flood Re's hands tied in legislation that could have an unpredictable and undesirable effect.

We have always been clear that there should be a gradual transition to more risk-reflective prices. We expect the transition plan to set out how Flood Re intends to support households to adapt to the withdrawal of support from Flood Re over time. We will not designate Flood Re unless we are satisfied with the industry's proposals for the scheme, including the transition plan.

It is important for Flood Re to retain flexibility in the way it discharges its public interest duty and plans for transition in order to ensure that it is in a position to balance these requirements against its core financial obligations. However, my noble friend's amendment draws attention to the need to offer more clarity about what might happen in the event that a surplus is accumulated, particularly in relation to managing the transition.

I should say that I have considerable sympathy for the points made by the noble Lord, Lord Campbell-Savours. I have first-hand experience of where exactly the type of sensible resilience measures he has suggested cost no more than putting things back exactly as they were before the flood so the insurance claim could cover them. He also referred to advice, which is clearly an important part of that. A number of sources of independent advice are available today. The National Flood Forum can direct flood victims to appropriate measures. Furthermore, we are continuing to discuss with the industry whether any of the reserves could be used to fund surveys.

As I have said, I am very grateful to my noble friend and the noble Lord, Lord Krebs, for bringing this to my attention. I would like to take the opportunity to discuss their proposals with them further before Third Reading. Although I cannot of course guarantee that I shall be able to bring something back, I may be able to clarify the Government's position further. I hope that I can persuade my noble friend to withdraw her amendment.

Baroness Parminter: I thank the noble Lord, Lord Krebs, the noble Lord, Lord Campbell-Savours, and my noble friend Lord Shipley, for their support for this amendment. My noble friend Lord Cathcart suggested that I may have misunderstood the insurance industry. We all have our dirty secrets, and many noble Lords may think of me as a squeaky-clean campaigner, but I have to say that I have been employed in the City by Lloyd's of London, so I do know a thing or two about insurance.

I accept the point made by the noble Lord, Lord Whitty, that the wording of the amendment may not be as clear as we would all hope to achieve to ensure that any surplus funds are used to manage down flood risk and help people to transition to a better place at the end of this temporary scheme. I hoped that it would be seen to be not prescriptive and unhelpful and I am very grateful again for the comments of my noble friend the Minister and for his kind offer of discussions with myself and the noble Lord, Lord Krebs, which we are both delighted to accept. We will return to this matter at Third Reading. On that basis, I beg leave to withdraw the amendment.

Amendment 90ZA withdrawn.

Amendment 90A

Moved by ***Baroness Northover***

90A: Clause 53, page 109, leave out line 10 and insert "obtain the consent of the FR Scheme administrator, which is not to be unreasonably withheld."

Amendment 90A agreed.

Clause 54: Scheme administration

Amendment 90B

Moved by ***Baroness Northover***

90B: Clause 54, page 109, line 26, at end insert—

"( ) Regulations under subsection (1) may require the FR Scheme administrator to provide the following information to relevant insurers who have issued insurance policies that are reinsured under the FR Scheme, so that those insurers may supply the information to holders of those policies—

(a) information about how to find out about the levels of flood risk to which an area in which household premises are situated is subject and how any flood risk may be managed;

(b) information about the FR Scheme, including information about the effect of section 51(2)(b) (transition to risk-reflective pricing of flood insurance for household premises)."

Baroness Northover: My Lords, in Committee, the noble Lord, Lord Krebs, tabled an amendment which sought to require the Flood Re scheme administrator to increase awareness among the beneficiaries of Flood Re about their local flood risk. We are very grateful to the noble Lord, Lord Krebs, for highlighting this

[Baroness Northover]
important matter. In Committee, we explained that we agreed with the intention behind the noble Lord's amendment and agreed to consider this further and return to it on Report. We think it is important that policyholders whose buildings, contents or combined insurance policies are ceded to Flood Re know about their flood risk so they can take simple measures such as signing up to free flood warnings as well as investigating longer-term options for managing their flood risk.

To plan for the future, these households also need to understand the likely impact of the transitional nature of the Flood Re scheme, which is subsidising their premiums. I am therefore today bringing forward Amendment 90B, which would allow the Secretary of State to require Flood Re, through regulations, to provide information for relevant insurers to pass on to their policyholders who will benefit from Flood Re. The information would cover the Flood Re scheme, flood risk and actions that householders can take to reduce the risk and impact of flooding. Our expectation is that standardised information will be sent to the customer by the relevant insurer that is ceding the policy to Flood Re. This makes sense because it maintains the relationship between insurers and their customers. Flood Re will need to work with the flood risk management authorities in the UK to ensure the information about flood risk is accurate and appropriate.

As a consequence of this amendment we are also making three other minor amendments, Amendments 90H, 90J and 90K, which affect Clause 69 and give the Secretary of State powers to make regulations defining "flood" and "flood risk" in the context of Flood Re and not just in the context of the flood insurance obligation, as was the case previously. I beg to move.

6.45 pm

Lord Grantchester: My Lords, I rise to speak to Amendment 90CE, which is grouped with these amendments. I was slightly confused as to whether the Government were putting their name to our amendment, because I noticed that we have a little "g" in front of our Amendment 90CE. But I will take that as a misprint and that I must still convince the Government of the merit of the case.

The amendment would put in place regulations that would add clarity to set the date of commencement for Flood Re. It would also create a data base of properties at risk of flooding and indicate whether the property is covered by the flood scheme. The amendment will insist that the database must be set up before Flood Re starts, as that would be logically helpful.

I begin by welcoming the Government's helpful concession, particularly in Amendment 90B, which sets out regulations to allow insurers to provide information to policyholders in the scheme. We are glad that the Government have listened and acted on our concerns expressed in Committee with the introduction of their amendment, but we still feel that it does not go far enough. Delivering information to those already in the scheme—that is, policyholders—is helpful as far as it goes. Although it is important that insurance companies are well equipped and able to deliver information to policyholders in relation to the flood scheme and how they can protect their properties adequately, we believe that the database proposed by our amendment would be a lot more useful, primarily for potential homeowners but also for mortgage lenders. It has become much more difficult of late for people to get mortgages and it is even more difficult to get a mortgage if the mortgage lender is at all concerned about damage from flooding. As such, information should be provided to home buyers at the start of their journey of finding a home rather than further along the process, after they have agreed with the vendor on a purchase or when they are at the stage of consulting mortgage companies after engaging solicitors. The database must be accessible to everyone and allow them to check whether a property for sale or rent is covered by the scheme and highlight its risk to flooding. This would prevent the all too recognisable reality experienced by people in the recent flooding whereby home owners were blindsided by their properties flooding and then found themselves caught when their insurance companies reassessed their policy terms. The database would also avoid the scenario whereby a home owner may believe that they are covered by Flood Re when in reality they are not.

It is a very straightforward amendment, which brings the whole subject of the database and properties into the public domain. It would add transparency and clarity to the scheme. At present, with the complicated nature of the scheme, especially in terms of eligibility, we should do all that we can to assist those potentially affected by the scheme by making them all the more aware of where they stand with regard to flood insurance on the property that they are inquiring about, not just once they become policyholders. We have already heard today of the complexities behind the scheme as regards leaseholders, as well as the exclusions for small businesses and other aspects.

Baroness Northover: My Lords, I thank the noble Lord, Lord Grantchester, for tabling Amendment 90CE, which proposes a publicly searchable database of flood risk. I am desolate that I must disappoint him as we cannot accept the amendment even though it does have a little "g" in front of it. Nevertheless, we agree with the intention behind the amendment that households that are ceded to Flood Re should be made aware of their flood risk. Knowing about flood risk is essential to helping affected households to manage their flood risk effectively, both in the short and long term. That is why we have recently published a note entitled *Homebuyers and Their Flood Risk*, in which we have explained the information currently available to prospective homebuyers.

It is a well established principle of the conveyancing process that the onus is on the buyer of a property to conduct their own searches and investigations into the potential risks to that property. In England, the Environment Agency provides a freely accessible resource of flood risk information for any area. Anyone may use this service to identify whether their post code is at risk of flooding from rivers, the sea or surface water. Similar resources are available to households in other parts of the UK. Should a household wish to identify flood risks specific to their property, commissioning a flood risk survey from a suitably experienced professional

would identify the ways in which water can enter a property and what measures could be taken to prevent or limit possible damage. We believe that requiring Flood Re to help insurers guide their customers to information about flood risk and how to manage it will add significantly to public awareness of flood risk. That is why I moved Amendment 90B and I thank the noble Lord, Lord Grantchester, for his welcome of it. I hope therefore that noble Lords are willing to accept the government amendments in this group and that the noble Lord will be content not to move his amendment.

Amendment 90B agreed.

Amendments 90BA and 90C

Moved by ***Baroness Northover***

90BA: Clause 54, page 110, line 23, leave out paragraph (a)

90C: Clause 54, page 111, line 1, after "section" insert "—

"flood insurance" has the meaning given in section 51;"

Amendments 90BA and 90C agreed.

Clause 56: Disclosure of information: preparatory purposes

Amendments 90CA to 90CD

Moved by ***Baroness Northover***

90CA: Clause 56, page 111, line 14, leave out subsection (1) and insert—

"(1) The Commissioners for Her Majesty's Revenue and Customs may disclose relevant HMRC council tax information to any person who requires that information for either of the following descriptions of purposes—

(a) purposes connected with such scheme as may be established and designated in accordance with section 51 (in any case arising before any scheme is so designated);

(b) purposes connected with the FR Scheme (in any case arising after the designation of a scheme in accordance with section 51).

(1A) A person to whom information is disclosed under subsection (1)(a) or (b)—

(a) may use the information only for the purposes mentioned in subsection (1)(a) or (b), as the case may be;

(b) may not further disclose the information except with the consent of the Commissioners."

90CB: Clause 56, page 111, line 19, at end insert—

""relevant HMRC council tax information" means HMRC council tax information relating to premises which are household premises and consisting of any of the following—

(a) the address (including the postcode) of the premises;

(b) the council tax valuation band in which the premises fall;

(c) information about when the premises were constructed;

(d) the National Land and Property Gazetteer unique property reference number for the premises;

(e) the unique address reference number allocated to the premises by the Valuation Office of Her Majesty's Revenue and Customs."

90CD: Clause 56, page 111, line 20, leave out subsection (3) and insert—

"(3) The Secretary of State may by regulations amend the definition of "relevant HMRC council tax information" in subsection (2).

(4) If the Secretary of State by regulations under subsection (3) amends the definition of "relevant HMRC council tax information" to add further descriptions of information, those regulations may include the provision described in subsection (5).

(5) The regulations may provide that if a person discloses, in contravention of subsection (1A)(b), information which is relevant HMRC council tax information by virtue of the regulations and which relates to a person whose identity—

(a) is specified in the disclosure, or

(b) can be deduced from it,

section 19 of the Commissioners for Revenue and Customs Act 2005 (wrongful disclosure) applies in relation to that disclosure as it applies in relation to a disclosure, in contravention of section 20(9) of that Act, of revenue and customs information relating to a person whose identity is specified in the disclosure or can be deduced from it.

(6) The Secretary of State must consult the Commissioners for Her Majesty's Revenue and Customs before making regulations under subsection (3)."

Amendments 90CA to 90CD agreed.

Amendment 90CE not moved.

Clause 57: Flood insurance obligations

Amendment 90D

Moved by ***Baroness Northover***

90D: Clause 57, page 111, line 37, leave out "relating to the effects of flooding" and insert "arising from a flood"

Amendment 90D agreed.

Amendment 90DA

Moved by ***Lord Whitty***

90DA: After Clause 63, insert the following new Clause—

"Appeals on removal from the Flood Reinsurance Scheme

(1) The Secretary of State shall by order establish a right of appeal for a household which has been removed from the Flood Reinsurance Scheme.

(2) The Financial Conduct Authority shall be responsible for the hearing and administration of appeals under subsection (1).

(3) An order under subsection (1)—

(a) shall be made by statutory instrument; and

(b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

(4) An order under subsection (1) must be made before the Flood Reinsurance Scheme has been implemented."

Lord Whitty: My Lords, Amendment 90DA is relatively straightforward. Clause 63 provides for reviews and appeals against premises being deemed not eligible to be entered in the register of those covered by Flood Re. As it is written, Clause 63 indicates that when the register is drawn up there is a list of which households are either in or out, according to the risk assessment at the time.

This is a 25-year scheme and things will change over 25 years. My amendment is designed to add to the provisions of Clause 63 and appeal against the

[LORD WHITTY]
removal from that list at a later stage. It is really a tidying-up. However, removal from the list could arise for a number of different reasons. It could be because the insurance sector had decided that the risk had changed; but that could be because the Committee on Climate Change—the noble Lord, Lord Krebs, is no longer in his place—had advised of a change and that there was less risk in that particular area. It could be that the Environment Agency's map had changed. It could be that the aggregated data from the insurance companies showed that that type of property was at less of a risk than it was assumed to be at the beginning of the scheme, bearing in mind that we are potentially 25 years on. It could be that resilience had been provided on some other basis—for instance, a flood defence scheme may have been built down the road—or that the catchment management in that area had significantly improved and diverted the flood away from that property to somewhere else. In an urban area, it could be that there had been major investment in the drainage system, which meant that the property was significantly less susceptible to surface flooding. There are all sorts of reasons why, objectively, the flood risk might diminish. Regrettably, in the light of the macro information from the Committee on Climate Change, it is more likely that a property will be drawn into the list than drawn out of it; but there will be such exclusions.

There could also be exclusions that are more esoteric to the insurance industry, in the sense that if insurance companies were insisting, as a condition of continued insurance, that that resilience measure should be introduced at the expense of the householder, one way or another, and the householders were not prepared to provide for that level of resilience expenditure, then either the offer, or renewal, of insurance would be taken away or the excess would be put at a level which the premium payer was not prepared to pay.

There are all sorts of reasons why a property might end up being removed from that list. If that is the case, there has to be the equivalent appeal against that in a situation where one is excluded from the list from the word go. As I read it, Clause 63 provides only for exclusion from the register in the first place; it does not provide for removal from the register. My amendment seeks to correct that gap. I beg to move.

Baroness Northover: My Lords, I thank the noble Lord, Lord Whitty, for this amendment. As we have previously discussed, a rigorous regulatory and dispute resolution regime for the insurance industry already exists, to ensure that insurers treat their customers fairly. Flood Re will not change the direct relationship between the insurer and the householder. Where households do not feel that a complaint has been treated fairly, they can contact the Financial Ombudsman Service, which offers a free dispute resolution service for people who wish to complain about how their insurance company has treated them. While the Financial Ombudsman Service is equipped to deal with individual complaints, the Financial Conduct Authority has a statutory objective to protect the wider interests of consumers and ensure that firms are giving a fair deal to their customers.

We need to remember that Flood Re is a voluntary scheme: insurers are not obliged to use it. We therefore maintain that there is no need for a specific appeal mechanism for Flood Re per se. Flood Re is not based on a register of properties; it is a voluntary scheme and so there are no grounds for an appeal mechanism.

However, the noble Lord is emphasising concern about who might be excluded from Flood Re over time. As was said in the other place, the memorandum of understanding agreed between the Association of British Insurers and the Government last year talked about genuinely uninsurable properties. As my honourable friend the Parliamentary Under-Secretary of State for Water, Forestry, Rural Affairs and Resource Management said, there will be no such thing as a genuinely uninsurable property at the start of Flood Re. However, there might be a case that over time, if householders choose to take no action to tackle their flood risk, Flood Re might seek to find a mechanism whereby they no longer benefit from the public subsidy. We have reflected further on that issue, working closely with the ABI. I can reassure noble Lords that our focus is on supporting households to become more resilient, not on excluding them from the Flood Re scheme.

As householders with policies ceded to Flood Re will be benefiting from subsidised insurance, important signals to them about flood risk—for example, the price of insurance and the levels of excess charged—will be lost. We have therefore agreed with the industry that Flood Re will provide information to insurers to pass to householders about flood risk, Flood Re itself and how to reduce the likelihood and impact of flooding. An amendment to that effect has been tabled.

We are continuing to explore with industry how people could be incentivised, perhaps, for example, by Flood Re paying for a survey after a property has flooded a number of times. My noble friend mentioned that. This would depend on Flood Re having sufficient reserves. Another incentive could be to increase the excess after repeated flooding.

There are a number of practical considerations to work through. However, there is a clear commitment between the Government and the insurance industry to putting in place an incentive-based approach rather than an exclusionary approach. I hope that noble Lords will also agree that the approach we have outlined strikes a fair and appropriate balance between supporting householders at high flood risk and the affordability of the scheme as a whole, and that the amendment will therefore be withdrawn, bearing in mind what I said at the beginning about the direct relationship between the insurance company and the householder and the means of redress that they can avail themselves of.

7 pm

Lord Whitty: My Lords, I thank the noble Baroness for that reply but I am not sure that it entirely meets the point. As a former chair of Consumer Focus, I am very familiar with the steps that people can take to obtain redress from financial services agencies, including the insurance industry. I am perhaps slightly less sanguine about the effectiveness of it but that is a different matter. However, the fact is that the Bill provides for a register and, in Clause 63, provides for people to

appeal against a body being excluded from that register in the first place. Unless I am completely misunderstanding the issue and what the noble Baroness said, I took it she accepted that there was a possibility of someone being excluded in one of the situations that I described—namely, when the insurance company's request that the householder introduced some resilience measures at their own expense as a condition of continuing to have that insurance could lead to their exclusion from the list. All I am saying is that if there is an appeals process at the beginning, why is there not one all the way through? I may have misunderstood something that the noble Baroness said and the purpose of Clause 63.

Baroness Northover: Perhaps I can clarify at least one point in relation to Clause 63 and the register. Clause 63 relates to the flood insurance obligation. It is not relevant to Flood Re. However, I am happy to write to the noble Lord to clarify this area.

Lord Whitty: That would be useful for all concerned, so I will shut up. I am very grateful for the Minister's offer to write to me. I beg leave to withdraw the amendment.

Amendment 90DA withdrawn.

Clause 69: Interpretation

Amendments 90E to 90K

Moved by ***Lord De Mauley***

90E: Clause 69, page 120, line 30, at end insert—

"(A1) In this Part "insurer" means—

(a) a person who—

(i) is authorised for the purposes of the Financial Services and Markets Act 2000 (see section 31 of that Act), and

(ii) has permission to carry on the activities specified in Article 10 of the Financial Services and Markets (Regulated Activities) Order 2001 (S.I. 2001/544), or

(b) a member of the Society (within the meaning of the Lloyd's Act 1982).

"(A2) The Secretary of State may by regulations amend the definition of "insurer" in subsection (A1)."

90F: Clause 69, page 120, line 31, after "define" insert ""relevant insurer""

90G: Clause 69, page 120, leave out lines 32 and 33

90H: Clause 69, page 120, line 38, at end insert—

""flood";"

90J: Clause 69, page 120, line 39, leave out ""flood insurance"" and insert—

""flood risk""

90K: Clause 69, page 121, line 7, after "subsection" insert "(3) or"

Amendments 90E to 90K agreed.

Clause 70: Period of operation

Amendment 90L

Moved by ***Lord De Mauley***

90L: Clause 70, page 121, line 33, leave out "(including" and insert "(whether or not otherwise capable of being transferred, and including"

Amendment 90L agreed.

Clause 71: Regulations and orders

Amendments 90M to 90T

Moved by ***Lord De Mauley***

90M: Clause 71, page 122, line 7, at end insert—

"(1A) Subsection (1) does not apply in relation to an order under section 70(3) if the only provision made by the order is provision for, or in connection with, the transfer of property, rights and liabilities."

90N: Clause 71, page 122, line 16, at end insert—

"(za) regulations under section 51 (the Flood Reinsurance Scheme),

(zb) regulations under section 52 (Scheme administrator),"

90P: Clause 71, page 122, line 17, leave out "53(1)" and insert "53"

90PA: Clause 71, page 122, line 17, at end insert—

"( ) regulations under section 56,"

90Q: Clause 71, page 122, line 17, at end insert—

"(aa) regulations under section 54 (Scheme administration),

(ab) regulations under section 57 (flood insurance obligations),

(ac) the first regulations to be made under section 58 (target number),

(ad) regulations under section 59 or 60 (information),

(ae) the first regulations to be made under section 61 (register of premises subject to greater flood risk),"

90R: Clause 71, page 122, line 19, at end insert—

"(ba) regulations under section 65 (compliance reports),"

90S: Clause 71, page 122, line 21, leave out "or" and insert—

"(da) regulations under section 69 (interpretation), or"

90T: Clause 71, page 122, line 24, at end insert—

"( ) If a draft of an instrument containing an order under section 70(3) would, apart from this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument."

Amendments 90M to 90T agreed.

Amendment 91

Moved by ***Earl Cathcart***

91: After Clause 73, insert the following new Clause—

"Internal drainage boards: apportionment of drainage expenses

(1) The Land Drainage Act 1991 is amended as follows.

(2) In section 37(5) (apportionment of drainage expenses), at end insert—

"(f) in the case of—the Secretary of State may by order define an equivalent measure for valuing the land"."

(i) any land to which none of the paragraphs (a) to (d) applies and it is not possible to calculate a value under paragraph (e)(ii) as the relevant rating lists no longer exist or cannot be located, or

(ii) land to which one of paragraphs (a) to (c) does apply but for which the relevant rating lists no longer exist or cannot be located,

the Secretary of State may by order define an equivalent measure for valuing the land"."

Earl Cathcart: My Lords, my noble friend Lord Howard moved this amendment in Committee. Unfortunately, he cannot be here today and has asked me to move it again on his behalf.

[Earl Cathcart]

As a farmer, I pay land drainage rates and, in a past life, I was a member of a Norfolk internal drainage board. Internal drainage boards get their funding from two sources: from farmers and agricultural landowners, for draining agricultural land—this is the land drainage rate; and from local authorities, for draining developed areas—this is the special levy. IDBs work out the special levy that they charge local authorities based on the value per hectare of the developed land. This is clearly set out in the Land Drainage Act 1991. This amendment does not change this calculation, which is clear, fair and transparent. IDBs need to know the value per hectare of developed land to calculate the special levy. However, the Land Drainage Act 1991 says that IDBs must work out the value per hectare of developed land from lists of rateable values of property compiled in 1990—25 years ago. Using these old lists of rateable values to work out the value per hectare of developed land is neither fair nor transparent as the IDB needs to have the lists. In many cases, the lists no longer exist. In addition, they are out of date and do not include anything built after 1990. As the lists are out of date, the variation of values in them may be wrong as relative property values between areas have changed since1990.

The only way to solve this problem is to change the Land Drainage Act through this amendment to give the Defra Secretary of State the power to set out another way of working out the value per hectare of developed land, so that IDBs do not have to use the old rateable value lists, if they have them.

The amendment is not prescriptive. We do not want to repeat the mistakes of the past by setting the way of working out the value per hectare of developed land in primary legislation. The amendment would rectify that mistake by taking the prescription out of the Land Drainage Act and instead giving discretion to Defra to set a method that is appropriate now, and to change it in the future if circumstances change. This is important as IDBs do vital work not just in protecting people, their homes and businesses and some of our best farm land, but also play a key role in keeping our power stations, ports, roads and railways working.

In addition to their usual maintenance costs, IDBs now face heavy bills to repair and rebuild defences, drainage ditches and pumping stations after the ravages of this winter, with its record rainfall and the biggest tidal surge in 60 years. Unless IDBs have a fair way of valuing developed land, they cannot set a fair special levy on local authorities, so they cannot raise the funds they need to do their vital work. This amendment will ensure that IDBs can get the funds to do their vital work, while also sorting out past mistakes by replacing prescriptive and out-of-date legislation with a simple discretionary power.

After my noble friend Lord Howard brought forward this amendment in Committee, my noble friend Lord De Mauley wrote to all 120-odd IDBs to ask whether this was a concern for them. When I met my noble friend Lord De Mauley and his officials last week, he said he could not conclude that it was an overwhelming concern as he had had only six responses from the IDBs. I do not know the timescale between the letter being sent out and our meeting, but I do not think it was that long. I do not know what the latest position is with regard to responses from the IDBs, but I do know that the Association of Drainage Authorities has written supporting the amendment. The CLA and the NFU have also written supporting the amendment.

The letter from the NFU adds another point that I have not raised yet. It states:

> "The NFU … considers that there is a need for this change both for existing IDBs but also to enable the creation of new IDBs in areas where they don't currently exist, we would therefore urge support of this amendment".

It goes on:

> "Such an amendment is especially important for areas where the Environment Agency is considering to withdraw from maintaining significant drainage assets. It is our view that in areas such as on the Pevensey Levels in East Sussex or within the Alt Crossens catchment in West Lancashire, to name but two, there is a strong need for IDBs to be established in order that existing water level management activity may continue and that the cost of that activity is shared equitably between the beneficiaries".

I hope my noble friend will accept this amendment. Being more realistic, I hope that he does not reject it today, but rather agrees to take it away and look at it between now and Third Reading. If he then agrees that there is a hole that needs plugging, he can either accept the amendment or come back with his own. I beg to move.

Lord Grantchester: My Lords, during our debates in Committee, the amendment of the noble Lord, Lord Howard of Rising, and the noble Earl, Lord Cathcart, seemed purely a matter of practicality. The noble Earl should be congratulated on finding this shortfall in the relevant documents. The Minister wished to reserve the Government's position pending further evidence. I merely rise to ask the Minister whether the position could be addressed by secondary legislation. That would allow Parliament to keep a watch on the situation and assess when and if it develops.

Lord Cameron of Dillington: My Lords, I apologise that I did not manage to get in before the Labour Front Bench. Before the excellent exposition by the noble Earl, Lord Cathcart, I had no detailed knowledge of the technical benefits brought about by this amendment. However, I do know about the vital importance of the role of IDBs in the land drainage sector, both as a former chairman of the CLA water committee, who was once the keynote speaker at an Association of Drainage Authorities lunch—a memorable occasion—and as a farming resident in Somerset.

The 2010 Act, not entirely wisely in my view, gave new land drainage responsibilities to county councils and district councils, taking away from the previously comprehensive responsibility of the Environment Agency and IDBs. This has caused a degree of chaos, certainly in Somerset, with no one really taking full responsibility for their duties or even, to begin with, knowing what those duties entailed. That is by the by. My key point is that the one solid rock in all this has been the IDBs. Their local and comprehensive technical and engineering expertise is absolutely vital and we would be lost without them. Anything that helps them to perform their duties better must be in all our best interests. I strongly support this amendment, which would seem to further that end.

Baroness Northover: My Lords, I thank my noble friend for raising this issue again and other noble Lords for contributing their expertise. As we previously explained in Committee, the Government value and support the important work that internal drainage boards, IDBs, undertake to manage water levels, reduce flood risk and protect critical infrastructure. We want to ensure that they can carry out their work without unnecessary hindrance. Defra has also developed a close and constructive working relationship with the Association of Drainage Authorities, ADA. Defra officials meet with ADA on a regular basis, including through a technical advisory group, which meets quarterly, to discuss a wide range of issues relating to IDBs. It is helpful that my noble friends have raised this issue with us, as ADA had not highlighted this previously as a potentially significant or widespread problem.

We have since sought information on this issue from ADA, as my noble friend indicated, and are in continuing discussion with them. ADA has written to all 120 IDB clerks to gather their views on this issue. Responses have been received within the past month and I can update the numbers. From a small number of IDBs, five say that they have access to rating lists, while six have said that they foresee a possible need for an amendment such as this. We do not therefore yet have the evidence to demonstrate that the unavailability of rating lists poses a widespread practical problem for IDBs.

7.15 pm

We are therefore not satisfied that there is a definite need for legislative change to address this particular concern. We are also not satisfied that the power that my noble friend has proposed necessarily offers the right approach to addressing this concern, should legislation be required. The power would require the Secretary of State to define an equivalent measure for valuing land. However, if it turns out that the original rating lists are no longer available in some parts of the country, it may prove challenging or impracticable to design a completely equivalent system.

This might mean that we would have to consider a wider revaluation of the urban land. This would have the effect of increasing special levies on unitary and district authorities and could, of course, in turn increase council tax for ratepayers in IDB areas. Given the potential impact of this power on taxation, we would need to consult across government, and wider consultation with the public would also be required. Therefore, as can be seen, there are a number of potentially serious unintended consequences of implementing such a power. We therefore need to give these a great deal of careful thought and fully understand their impact.

We appreciate that this is intended to be only an enabling power. However, this power is more than just a technical amendment and Parliament would rightly expect to see considerable detail explaining how the Government intended to use such a delegated power before agreeing to its inclusion in the Bill. I heard what the noble Lord, Lord Grantchester, said. I also remember how the noble Lord, Lord Whitty, took me to task for not following everything that the Delegated Powers Committee wished to do. Of course, the Delegated Powers Committee might be very interested in this particular arrangement.

In view of our concerns, and the current lack of definitive evidence of the need for legislative change, we cannot justify to Parliament the inclusion of such a delegated power in the Bill at this time. Nevertheless, we much appreciate the points that my noble Friend and others have made. We realise that we need to investigate this issue thoroughly. As I mentioned earlier, we have been working with ADA as a priority to understand the extent of any problem, and we understand that it will provide more information when it receives it from IDBs. We also wish to explore with ADA whether the issue could be resolved through non-legislative options first before considering the need for legislative change.

We welcome further and more expansive information on the practicalities of this issue for IDBs. If it becomes clear that there is no non-legislative way of resolving the issue, we will deal with the matter at the earliest opportunity. I hope that reassures noble Lords. Given the taxation implications of valuing the land in another way or revaluing the land for IDB funding purposes, it is possible that we could use the annual finance Bill to make any legislative changes in future.

I therefore urge my noble friend to withdraw his amendment. Following our continuing investigations with ADA, we would be happy to write to him and to my noble friend Lord Howard of Rising, who tabled an amendment in Committee, and notify them of the outcome and any course of action to be taken.

Earl Cathcart (Con): My Lords, I thank the Minister for picking up the baton on this. From what she said, I can see this is not an easy one to take forward, but there seems to be a concern with some of the IDBs and I thank her for continuing to talk to ADA to see what the best course of action is. With that, I beg leave to withdraw the amendment.

Amendment 91 withdrawn.

Amendment 91A

Moved by ***Lord De Mauley***

91A: After Clause 74, insert the following new Clause—

"Sustainable drainage systems: non-performance bonds

In Schedule 3 to the Flood and Water Management Act 2010 (sustainable drainage), in paragraph 12 (non-performance bonds), in sub-paragraph (4)(c)—

(a) after "sums received" there is inserted "from a person";

(b) for "the developer" there is substituted "that person"."

Amendment 91A agreed.

Schedule 11: Orders under section 77: further provision

Amendments 91B to 91D

Moved by ***Lord De Mauley***

91B: Schedule 11, page 225, line 6, at end insert—

"Changes in water supply licensing

1A (1) A section 77 order may make provision in connection with the introduction of new water supply licences.

(2) A section 77 order may in particular—

(a) make provision for old water supply licences to continue in effect, subject to provision made by a qualifying scheme;

(b) make provision about the granting of a new water supply licence on application made by the holder of an old water supply licence.

(3) A qualifying scheme is a scheme that—

(a) is made by the Water Services Regulation Authority, and

(b) contains such provision as is described in sub-paragraph (4).

(4) The provision mentioned in sub-paragraph (3)(b) is—

(a) provision for the revocation of all old water supply licences—

(i) on the first day on which it would be possible for a new water supply licence to come into effect, or

(ii) in accordance with arrangements in the scheme and before a day specified in or determined under the scheme,

(b) provision for compensation to be paid by the Water Services Regulation Authority in connection with the revocation under the scheme of an old water supply licence,

(c) provision, in a case where the scheme allows a holder's old water supply licence and new water supply licence to have effect at the same time, for preventing the holder supplying water to premises in reliance on the old water supply licence where—

(i) the premises supplied are the premises of a person who was not a customer of the holder immediately before the grant of the new licence, and

(ii) the premises could be supplied with water in reliance on the new water supply licence,

(d) provision for compensation to be paid by the Water Services Regulation Authority in connection with the restriction imposed on an old water supply licence under paragraph (c),

(e) provision about the determination of—

(i) claims for compensation payable under the scheme, and

(ii) appeals from the determination of such claims, and

(f) provision satisfying such other requirements as may be specified in a section 77 order, including requirements about the persons who may claim compensation, the measure of compensation and matters by reference to which compensation may be reduced.

(5) Requirements imposed under sub-paragraph (4)(f) may allow the scheme to make provision by virtue of which the compensation payable in a particular case may be nil.

(6) A qualifying scheme may include provision about—

(a) the making of claims for compensation;

(b) the matters to be proved by a claimant.

(7) Sub-paragraphs (4) to (6) are not exhaustive of what may be included in a qualifying scheme.

(8) A section 77 order may make provision for a relevant person specified in the order, or appointed by the Secretary of State, to determine—

(a) claims for compensation payable under a qualifying scheme;

(b) appeals from the determinations of such claims.

(9) In sub-paragraph (8) "relevant person" means—

(a) the Water Services Regulation Authority, except in relation to appeals from the determination of claims for compensation,

(b) the Competition and Markets Authority, or

(c) any other public authority (within the meaning of section 6 of the Human Rights Act 1998).

(10) A section 77 order may provide for functions of the Competition and Markets Authority ("the CMA") relating to compensation payable under a qualifying scheme to be carried out on behalf of the CMA by a group constituted for the purpose by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013.

Modification of conditions of old water supply licences

1B (1) Where a section 77 order makes provision for old water supply licences to continue in effect, that provision may include provision for applying new sections 17I to 17R to old water supply licences, with such modifications as appear to the Secretary of State to be appropriate.

(2) Provision under sub-paragraph (1) may include provision for treating a reference to a new water supply licence as including a reference to an old water supply licence.

(3) Provision under sub-paragraph (1) may include provision for treating—

(a) a reference to a standard condition of a new water supply licence as including a reference to a standard condition of an old water supply licence, if the two conditions are in, or as nearly as may be are in, the same terms;

(b) a reference to a standard condition of a new water supply licence giving the holder a new retail authorisation as including a reference to a standard condition of an old water supply licence giving the holder a retail authorisation, if the two conditions are in, or as nearly as may be are in, the same terms;

(c) a reference to a standard condition of a new water supply licence giving the holder a new restricted retail authorisation as including a reference to a standard condition of an old water supply licence giving the holder a retail authorisation, if the two conditions are in, or as nearly as may be are in, the same terms;

(d) a reference to a standard condition of a new water supply licence giving the holder a new wholesale authorisation as including a reference to a standard condition of an old water supply licence giving the holder a supplementary authorisation, if the two conditions are in, or as nearly as may be are in, the same terms.

(e) a reference to a standard condition of a new water supply licence giving the holder a new supplementary authorisation as including a reference to a standard condition of an old water supply licence giving the holder a supplementary authorisation, if the two conditions are in, or as nearly as may be are in, the same terms.

Changes in water supply licensing: Wales

1C (1) A section 77 order may make provision in connection with the extension of new retail authorisations and new wholesale authorisations to the use of supply systems of water undertakers whose areas are wholly or mainly in Wales, where that extension takes place after the introduction of new water supply licences.

(2) A section 77 order may in particular include provision for or in relation to the payment by the Water Services Regulation Authority of compensation to any person holding a new water supply licence who—

(a) following the coming into force of any provision of this Act, is unable to carry on activities that had previously been authorised by a new restricted retail authorisation, or a new restricted retail authorisation and a new supplementary authorisation, given by the licence as a result of—

(i) a new retail authorisation or a new wholesale authorisation or both having been required in respect of them, and

(ii) the person's licence not having been varied to add a new retail authorisation or a new wholesale authorisation or both, because the person did not apply to vary the licence, or did not apply to add

the appropriate authorisation or authorisations, or because the person's application to vary the licence was refused or granted only as to one authorisation, and

(b) has suffered loss or damage as a result of not having a licence that enables the person to carry on all those activities.

Introduction of sewerage licensing

1D (1) A section 77 order may make provision in connection with the introduction of sewerage licences.

(2) A section 77 order may in particular include provision for or in relation to the payment by the Water Services Regulation Authority of compensation to any person who—

(a) before 31 March 2014 was carrying on any activities in relation to the sewerage system of a sewerage undertaker,

(b) following the coming into force of any provision of this Act—

(i) is unable to continue to carry on those activities as a result of their having been prohibited,

(ii) is unable to continue to carry on those activities as a result of a sewerage licence having been required in respect of them, and the person's not having applied for, or the person's having been refused, a sewerage licence, or

(iii) is unable to continue to carry on those activities in the same manner as a result of the person's having been granted a sewerage licence the effect of which is to restrict the carrying on of the activities, and

(c) has suffered loss or damage as a result of—

(i) those activities having been prohibited,

(ii) a sewerage licence not having been granted, or

(iii) those activities having been restricted."

91C: Schedule 11, page 227, line 11, leave out "for a relevant period"

91D: Schedule 11, page 227, line 43, at end insert—

""sewerage licence" means a sewerage licence granted under section 17BA of the Water Industry Act 1991."

Amendments 91B to 91D agreed.

Clause 80: Commencement

Amendments 91E to 94

Moved by ***Lord De Mauley***

91E: Clause 80, page 125, line 6, after "56" insert ", so far as relating to the power to disclose information under section 56(1)(a)"

92: Clause 80, page 125, line 18, after "water" insert "or sewerage"

93: Clause 80, page 125, line 24, at end insert—

"( ) section (Report on water abstraction reform);"

93A: Clause 80, page 125, line 29, at end insert—

"( ) section (Sustainable drainage systems: non-performance bonds);"

94: Clause 80, page 125, line 36, at end insert—

"( ) The power of the Secretary of State or the Welsh Ministers to make an order under subsection (3) is to be exercisable by statutory instrument."

Amendments 91E to 94 agreed.

Schedule 12: Commencement orders: appropriate authority

Amendments 95 to 97

Moved by ***Lord De Mauley***

95: Schedule 12, page 232, line 23, leave out "paragraph 3" and insert "this Schedule"

96: Schedule 12, page 232, line 25, leave out "(as amended by section 2 of this Act)"

97: Schedule 12, page 232, line 29, leave out "(as inserted by section 4 of this Act)"

Amendments 95 to 97 agreed.

Health: Deaf People

Question for Short Debate

7.20 pm

Asked by ***Lord Ponsonby of Shulbrede***

To ask Her Majesty's Government what measures they intend to take to improve the health of deaf people.

Lord Ponsonby of Shulbrede (Lab): My Lords, I open by thanking the Minister and noble Lords who are going to take part in this important debate. It is about deaf people, by which I mean people who are born or become profoundly deaf before the age of five. They usually prefer to communicate in British Sign Language and see themselves as part of the deaf community. By this definition, there are an estimated 70,000 deaf people in the United Kingdom.

I am speaking to a deaf health study called *Sick of It*, launched last week, on 25 March, which is the largest and most extensive study of the health of deaf people in the world so far. Most of the study was funded by the Big Lottery Fund and carried out by the charity SignHealth in partnership with the University of Bristol. I am particularly indebted to Dr Andrew Alexander, SignHealth's medical director, who provided me with the briefing for this debate.

Before now, there has never been any research on this scale into the health of deaf people in this country. Although there have been a few small studies looking at access to health—all found it poor—no Government have ever specifically addressed the health of deaf people as I have defined them here. The closest initiative was *Mental Health and Deafness—Towards Equity and Access*. Although this started as a consultation on mental health, it included a lot on the wider barriers faced by deaf people. The report was supported by funding which was received by each primary care trust to help it implement the recommendations of the report.

Deaf health rarely features on any agenda, with the notable exception of that of the House of Lords. Even within health and equality programmes, attention is normally focused on groups with a higher profile. It does not help that being deaf is a hidden disability and that there is so little awareness of the barriers that deaf people face. This is usually the case on the health front

[Lord Ponsonby of Shulbrede]
line as well. Most staff will think that speaking louder or writing things down will solve the problem. When surveyed, a very high percentage of doctors wrongly thought that they had communicated well with their deaf patients.

I turn to the report's methodology and findings. There were three stages to the report: first, an online survey was conducted by Ipsos MORI; secondly, personal health assessments were made of 298 deaf people, including looking at their blood pressure and BMI and taking blood tests, et cetera; thirdly, there were in-depth interviews of deaf people. The findings were as follows. First, underdiagnosis and undertreatment of potentially serious conditions was more common for deaf people. Secondly, high blood pressure was almost twice as common in deaf people as in the rest of the population. Thirdly, deaf people have generally healthier lifestyles than the rest of the population in terms of smoking and alcohol but are more likely to be overweight. Fourthly, there is underdiagnosis: deaf people are twice as likely as hearing people to have high blood pressure that has not been diagnosed and may also be more likely to have undiagnosed diabetes, high cholesterol and cardiovascular disease. Moving on to poorer treatment, the report also found that when deaf people have been diagnosed, they are more likely to be on inadequate treatment for those conditions. It has been estimated that if the deaf community had the same health profile as the general population, the NHS would save about £30 million per year.

I will now talk about access and communication. A large number of deaf people reported not seeing their GP because they were put off by the prospect of poor communication. A large proportion booked appointments by going to the practice in person—some 45%—whereas very few hearing people book appointments in this way. Only 15% of deaf people said that their GP was good at listening to them, compared to 51% of the general population. At most, 30% could use BSL in a consultation even though, in total, 94% would prefer to sign. More than half had to use an English-based form of communication—for example, lip reading or writing notes—but only 5% would prefer to communicate in that way. This disparity between how deaf people have to communicate and how they would like to communicate is an indictment of the health service, and an explanation for the poorer health outcomes of deaf people. Only 25% of deaf people have confidence in their doctor, compared to 67% of the general population.

There is also a wider issue about access to information. Because health information is not widely available in an accessible format, a lot of the deaf people studied were unsure about their health and unsure what their prescriptions were for or how to take their medicine. While many hearing patients would find out more information from friends, family or the internet, these options were less available to deaf patients. As a result, few of the deaf people interviewed through the in-depth process appeared actively engaged with their own personal health management.

What are the prescriptions for change? I should just say that change from the point of view of the deaf community is about equal rather than special treatment. The first prescription is that systems within the health service need to be accessible. From booking an appointment to getting test results, there should be a communication agreement for each deaf patient, which is then coded and recorded in their patient record. Secondly, deaf patients should be able to book appointments online and be able to use texts to communicate with services. Thirdly, deaf patients should be able to communicate during consultations in their preferred language. Health services must expect and plan for deaf patients. Clinicians should remember that interpreters are not just for deaf people but help the doctor to understand and diagnose properly. Fourthly, providers must make sure that staff know how to book an interpreter and ensure that interpreters are suitably qualified. Fifthly, health information needs to be made accessible in other formats, including BSL and subtitles. Currently, only 10 out of a total of 900 NHS Choices videos are available in BSL. The proposed information standard on accessibility should be supported with a funded programme.

I move on to some questions, which I have given notice of to the Minister. First, are there any plans to ensure that NHS Choices increases the number of videos available in BSL? Secondly, what would the Minister recommend to a deaf person who wants to see a doctor but is told no interpreter is available or that it is too expensive? It was brought to my attention earlier today by Dr Clare Redstone, a GP, that it is very common to experience problems in booking interpreters. Thirdly, what steps will the Government take to encourage the NHS Executive and Public Health England to promote the health of deaf people? Fourthly, when can we expect the NHS computer system to be able to tell us how many deaf people there are and which services they are accessing? Fifthly, will implementation of the proposed information standard be supported with a funded programme which can help to educate and support health services?

My sixth question is one that I sent the Minister earlier regarding whether psychological therapies providing BSL should be the responsibility of specialised commissioners. I understand that the Minister has since decided that psychological therapies for deaf people should not be on the list of prescribed services. Therefore, in the updated situation, my question is: how can we ensure that psychological services nationwide are available for deaf people? I understand that there is a very patchy covering at the moment. Lastly, what does the Minister think would be the best way to raise deaf awareness among staff working in the health service?

I look forward to the Minister's response. I understand that she is working on a cross-governmental strategy on hearing loss and that the report on this is ongoing. My debate today is about a very specific cohort within that deaf community, and I hope that she will be able to address the questions that I have raised.

7.30 pm

Lord Borwick (Con): My Lords, I am grateful to the noble Lord, Lord Ponsonby, for bringing this matter to debate following the SignHealth report.

I must, first, declare an interest. For about the past 25 years, I have been a trustee of the Ewing Foundation for deaf children, a charity that has, for the past 60 years, helped to improve the teaching of children who use their residual hearing and lip reading to communicate by speech.

The change in the prospects and outcomes for deaf children due to the introduction of cochlear implants, digital hearing aids and newborn hearing screening is one of the most exciting stories in disability. Noble Lords may have seen the publicity in the papers on Friday, or even the YouTube film, of the joy of a deaf girl of 40 hearing for the first time when her cochlear implants were turned on. For the first time, she can hear music, the laughter of babies and the songs of birds. This revolution has come from cochlear implants, which will radically reduce the disabling effects of profound deafness in children and adults.

The *Sick of It* report is important and interesting, but I am afraid that it gives away its self-selected background. A statistic on the page about communication issues claims that 80% of deaf people want to communicate using British Sign Language. The noble Lord suggested that that figure was 93%, but I think it is the definition of "deaf" that accounts for the difference. That statistic is a conundrum to me, in that the vast majority of deaf people, using a more ordinary definition of the word, are elderly people who do not use British Sign Language. Indeed, the CRIDE report said that 79% of deaf children use only spoken English. It may be that the definition of deaf depends on who is hearing it.

A strong part of good communication is literacy. Unfortunately, communicating through sign language while learning to read and write in English is like talking in English and reading and writing in Chinese. I am filled with admiration for all the children who can do it. Noble Lords may have strong opinions about whether tweeting and texting can really be described as literature but they are fundamental to the lives of many teenagers nowadays. There is some great technology coming forward. The Apple digital assistant, Siri, and many other programs can transcribe your questions, and a doctor's replies can be sent from an iPad to a simultaneous remote caption service. All these new technologies need literacy.

The theme of the report is that good communication is fundamental to good health, and that makes sense, but it is true not only of deaf patients; communication with all patients can be made better.

Another feature of the report is isolation, and deafness is very isolating. Research has shown that in old age the combination of cognitive decline and hearing loss can be fatal. Hearing loss seems to speed up dementia, so perhaps hearing loss in older patients should be treated more aggressively when it is first diagnosed, and deaf awareness training given to more health professionals.

Time after time, surveys suggest that there is a correlation between good health and good education, so the most powerful advantage to the health of deaf people is to make sure that they get a great education. Profoundly deaf children now, thanks to cochlear implants, can be educated primarily in mainstream schools, with hearing friends and ordinary prospects for the future.

But cochlear implants are expensive, although not so much in their implantation, which, like everything electronic, is improving technically and reducing in price. The real cost comes in training the baby or the child who needs to get the most out of their implant. However, this is so much cheaper than a lifetime of interpreters. I must compliment all parties for getting on with the cochlear implant programme and not stinting on this project. Ten thousand people have had cochlear implants so far. That is a marvellous achievement and it is changing society. There are now only a very small number of children below the age of five who use sign language, and BSL may be regarded in the future as being used by fewer and fewer deaf people. Who knows what will happen? Many other skills have been superseded by technology. We will have to do our best to support those who continue to use sign language but they will gradually become a tiny minority of deaf people.

Some 40% of deaf children have disabilities in addition to hearing loss. Deafness and autism or deaf and blind with a learning disability are combinations that are becoming more common, partly as a function of doctors saving extremely premature babies who in past years would have died. These babies can now survive at 22 weeks' gestation, but with multiple problems. Some parents are better than others at caring for a child with challenging behaviour who may never live independently but, sadly, some children are effectively abandoned by their parents to the state—a sad future for a child following heroic efforts to save an extremely short pregnancy.

I have two questions for the Minister. The first concerns the reducing number, and increasing age profile of, qualified teachers of the deaf. The report stresses the importance of good health education for deaf people. Deaf children and young people need to be equipped with information and strategies to access health services independently as adults. To achieve that, we will need more teachers of the deaf. How can we get them?

The noble Baroness was asked a very similar question in a debate last October by my noble friend Lady Brinton, and she replied with information about the national scholarship fund. How many teachers have applied for, and how many have been granted, help from this fund to train as teachers of the deaf? It appears that this fund is not working well enough to solve the problem, so what else can be done to encourage more teachers to work in this specialist area?

Secondly, can we increase the amount of communication in our health service that is duplicated both verbally and by text? It is far cheaper to have a text system of booking appointments than an interpreter, and that expenditure will benefit not only deaf patients but all patients who can read and write in English.

7.38 pm

Lord Addington (LD): My Lords, having seen the title of the SignHealth report, I was surprised by nothing that I read in it. If you think about it, when

[Lord Addington]
you are dealing with a medical situation, being able to tell somebody what the matter is has to be a huge advantage. Man as an animal is supposed to be a compulsive communicator. One major thing that we do is to talk to each other and if something gets in the way of being able to communicate properly, we will have problems. The question is: how do we deal with that? We will never get it absolutely right.

I have to declare an interest. I am chairman of a company called Microlink, which supports disabled people through its innovations, usually involving computing. This has led me to take a closer look at this area. Indeed, one of our case studies concerned being an online interpreter. Most of us are online. It is a much better use of an interpreter's time to be able to use British Sign Language online than it is for him or her to have to follow a person around.

In addition, if we are supposed to be enhancing the dignity of a person, we want to give them as much independence as possible. A translator is an expensive, difficult piece of kit you may not want in the room when you are talking to your doctor about, for example, sexual health or reproduction, particularly if they are there all the time. Having something online, as described here, seems a perfectly sensible way forward but to use it both parties must know that it is possible and how to access it. Making sure that that information is discerned throughout the system for the client base and the provider is essential to getting the best out of it. That must be looked at and people must know it is available. If it can be done comparatively easily, which seems to be the case, everyone must know. That would enhance the dignity of the patient and make the job of the doctor easier. We can go into the night speaking about that.

As the noble Lord, Lord Borwick, has mentioned, lots of technologies are language-based. If you are literate, you would have another means of communication. As someone who is dyslexic, I have a little story about one of these bits of technology. Through the aforementioned interest, I saw a wonderful piece of kit which addresses literacy and gives a person some personal space. The UbiDuo comes from the States, although I do not think that we would have given it that name. Basically, you use two keyboards and two screens that are roughly the size of small computers, and you get instant translation of your communication to someone else. They can read it and communicate back. I was shown this at a conference where everyone else was oohing and ahing about it. I discovered that I was the only person who could not use it because I am dyslexic, which shows that everything has its limitations. However, if you are informed and know what is going on, you can overcome that and get through to the other person. A line of communication can be established. There are many different types and uses of language. If we can establish the fact that they are available and known about, these problems will be cut.

Most of what we are talking about will cut across government departments. How would anything being talked about here not be covered in one's health employment profile? I bumped into Mike Penning, the disability Minister, who said that he is going to try to work across departments. It is nice to know that disability has been slightly pushed up and now has a Minister of State. There will be the same problems in health, employment and education. Everything relates and cross-references. How we deal with that is very important.

When someone leaves a medical establishment, hospital or doctor's surgery, how will they interpret the lifestyle and support that they will receive? I know Mike Penning reasonably well and he is a tenacious individual but I do not know how much he and Ministers in other departments can make sure that this support is followed through. If deaf people are overweight and want healthier lifestyles, it is true that they have more trouble accessing, for example, exercise and outdoor activity. What are we doing to make sure that they can or that they do not have to jump over hurdles? We should be able to take our solution from one place to another.

We have just heard a very positive description of what might happen with cochlea implants. That will never deal with all the problems but it might deal with quite a lot of them. However, as the noble Lord said, most people's hearing problems are probably late onset. As with most disabilities, they build up. The deaf community has vociferous factions within it which will tell you that true deafness is something else, that it is what they have and not what someone else has, and that their approach and nothing else is the proper one. They are like all other communities I have ever met in that regard. However, unless you can get an approach which covers a variety of ways of dealing with the communication problem, addresses all those areas and accepts that they are all equally valid, you will always create more holes, cracks and barriers than you should otherwise have.

Finally, I have a story about the aforementioned UbiDuo. When Esther McVey was the Minister for Disabled People, she was at a conference and decided to have a chat with the deaf man who was doing a demonstration. After a long conversation with aides possibly tugging at her elbow to get her out of the room, we went along and said, "This is wonderful. Isn't it a great piece of kit?". A woman from the next stall said, "I wonder if she would have been quite so keen if it wasn't such a tall, good-looking man on the other side". If my honourable friend had not noticed that, the woman on the next stall certainly had. Allowing someone to interact on a basic human level is what we are after. This is merely an application that can be used in the healthcare that we are looking at. Unless we approach it like that, we will miss far more opportunities to enhance people's lives overall than we should.

7.46 pm

Baroness Howe of Idlicote (CB): My Lords, I congratulate the noble Lord, Lord Ponsonby, on securing this debate on much needed improvements for the health needs of deaf people. Although deaf people have the advantage, unlike the blind, of being able to see, the fact that deafness is not a visible disability, as the noble Lord, Lord Ponsonby, has said, means that other people are not necessarily aware that you are deaf. Therefore, less immediate attention is given in trying to help with any problems that the person will be facing. Perhaps that lack of awareness of deafness

also helps to explain why so few Members of your Lordships' House are taking part in this important dinner-break debate.

As someone who has had hearing problems since my children were born, and as I have now reached the limit of what hearing aids can do to help me understand what people are saying, I have some, although obviously not a complete, understanding of the problems and frustrations that deaf patients face. Most definitely I have sympathy with the concerns so graphically illustrated in the pamphlet *How the Health Service is Failing Deaf People*. It clearly makes sense for doctors' surgeries or hospitals to have the kind of BSL support or other technical arrangements to hand that the authors of this pamphlet are advocating should be routine but clearly are not. Although I suspect that not everyone who is deaf will mind having someone close to them speak to the doctor, the individual's wishes should be paramount.

Surely, it must be of concern to us all that so many deaf people have a considerably poorer health record than the average citizen. I was glad to see from a Healthwatch briefing sent to me over the weekend that a few areas of the country are beginning to realise the extent of the problems that deaf or hard-of-hearing patients face. In 2013, Kirklees Healthwatch followed up numerous concerns identified in its survey of the area. I hope that at least some of these—for example, deaf awareness training being developed and rolled out for provider staff, including handling phone calls, personal visitors and booking of BSL interpreters—are beginning to happen. Healthwatch also reports the beginnings of awareness and action in areas such as York, Wakefield, Staffordshire and Stockport. As well as the important reasons in the pamphlets for the relevant help proposed, there are other reasons why a greater priority needs to be given to those who are deaf or in the process of going deaf. Ageing, by itself, inevitably brings hearing loss. As people are living considerably longer these days, they will have hearing problems for a longer period of their lives. As well as that, the way that today's young expose their ears to incredibly loud media sounds will inevitably mean that when age kicks in, their hearing loss is bound to be considerably worse, last longer and probably start at an earlier age.

Interestingly, in your Lordships' House, despite all the modern hearing loops that are fitted in the Committee Rooms, which others may also have found quite difficult to communicate with, I find that the very best hearing loops available are those that we can switch into in the Chamber in itself—where we are at the moment. This has a great deal to do with the considerable improvements that have recently been completed here, but I suspect that it is also helped by the way that the microphones all hang down from the ceiling and speakers are located in the seats of every Bench for people to listen through.

As in so many other ways, because so many noble Lords themselves are going through the stages of ageing, including hearing loss, apart from each one of us checking that appropriate equipment and help are available in our own doctors' surgeries—which I certainly hope every one of us here today will do—debates such as this that seek government backing can also help to raise awareness of the necessary action to be taken.

With that in mind, I look forward to what the Minister can tell us about what the Government will do to reassure the noble Lord, Lord Ponsonby, about his six questions and the others that we have added. These considerable changes must take place in doctors' surgeries and hospitals to meet the wide range of needs described so graphically in the pamphlet, *How the Health Service Is Failing Deaf People*. To continue with such failure would surely be a disgrace.

7.52 pm

Lord Hunt of Kings Heath (Lab): My Lords, I am very grateful to my noble friend Lord Ponsonby for his initiative and his excellent speech. I declare my interest as chair of an NHS foundation trust, a consultant and trainer with Cumberlege Connections and president of GS1.

Parliamentary debates about the quality of public services to deaf people are all too infrequent. Therefore, like the noble Baroness, Lady Howe, I welcome the opportunity to put that right tonight. As noble Lords have said, it is particularly opportune because of the publication on 25 March of this excellent report by the deaf health charity SignHealth. I was very privileged to speak at the conference held on 25 March to launch the report.

As my noble friend said, the report makes very sobering reading. He went through some of the details, but the headline results of issues in relation to deaf people in the health service—underdiagnosis, poorer treatment, poorer communication and lack of accessible health information—are a salutary wake-up call to us all. As the noble Baroness, Lady Howe, said, this has been reinforced by some interesting work by local Healthwatches, which we were sent over the weekend. The noble Baroness referred to Kirklees Healthwatch, but I also notice work in York, Wakefield, Staffordshire, Enfield, Islington and Stockport. All of those local Healthwatches are doing good work in their areas. I hope that the Government will listen to what Healthwatch is saying and act on some of its recommendations and proposals.

My noble friend referred to a number of recommendations made by SignHealth to try to turn the situation around, such as communications agreements for each deaf person coming into contact with the health service. It is surely a sensible recommendation that they should be able to book appointments online using SMS text to communicate with services. Also, health information needs to be more accessible in other formats, including British Sign Language and subtitles. Importantly, there is the recommendation on psychological therapies, which ought to be available to deaf people in British Sign Language nationwide. It has been reported to us that Ministers have turned that recommendation down. I would be grateful if the Minister could update the House on that. If Ministers have turned it down, does she think that that is consistent with the Equality Act duty?

I want to ask the Minister about this more generally. She knows that individual National Health Service bodies and the department's arm's-length bodies have public sector equality duties under Section 149 of the Equality Act 2010. This duty requires public authorities

[Lord Hunt of Kings Heath]
to have due regard to eliminate discrimination between those with and without a protected characteristic and to advance equality of opportunity between those with and without a protected characteristic. My understanding is that that means removing or minimising disadvantages suffered by people in protected groups and considering steps to meet the needs of protected groups where they are different from those of other people. Public authorities are also under a duty to make reasonable adjustments for disabled people to make sure that a disabled person can use a service as close as reasonably possible to the standard usually offered to non-disabled people. From the SignHealth work, it is pretty apparent that for many deaf people that duty is not being effectively applied. Again, what action are the Government taking to monitor the implementation of the Act's duty and what action will they take if it is clear that public authorities are failing in that duty?

We have had some debate about the necessity of interpreting services. I have been contacted by a general practitioner who is particularly concerned about this issue. She tells me that there is currently confusion in the NHS about the funding for interpreters since the reorganisation and replacement of primary care trusts by clinical commissioning groups. My understanding is that in many parts of the country primary care trusts funded interpreting services but, since they were abolished, there seem to be two problems. One is that clinical commissioning groups have not always been prepared to continue to fund those services. Secondly, there has been the issue of how GPs might obtain funding from NHS England, which is the body that they are now in contract with, for interpreting services within their own surgeries. I understand that, while at first some GPs were successful, there are indications that funding is now being withdrawn. That means that GPs will have to pay for interpreting services out of their practice expenses. Again, I would be interested in what the Minister has to say about that.

The noble Lord, Lord Borwick, made an interesting speech and I certainly take his point about literacy and the achievement of the cochlear implant programme. However, I was delighted with the official recognition of British Sign Language some years ago. I recall the bad old days when some deaf children were forbidden to use sign language at school. We have all moved on from that and, for those deaf people who use sign language, it is important that interpreters are available in the NHS. I also share his concern—he raised the point that we debated in October—about whether enough people are coming forward to train as teachers of deaf children. That is a very important point.

I very much take the point raised by the noble Lord, Lord Addington, about online interpretation. He was really saying that that solution was capable of a much wider interpretation than simply talking about deaf people themselves. We must surely be on the edge of a revolution in communications and the use of IT in the health service. This could clearly bring great advantages for many people who find communications difficult at the moment, but I do not think it takes away the responsibility of people in the health service to improve the way they do things now. It is very clear that some deaf people are finding services very inaccessible indeed.

Lord Addington: I totally agree with the noble Lord: it is another way of skinning the cat—that is all.

Lord Hunt of Kings Heath: The NHS has a long way to go to use the technology that the noble Lord has put forward. I welcome the suggestions that he made.

My noble friend Lord Ponsonby asked the Minister a number of questions. I would like to put forward a number of proposals for the Government to consider. For many years, the outcome of health services for deaf people has been overlooked. We are talking about a relatively small group of people—people who inevitably find communication difficult. Will the Government consider the appointment of a national champion—perhaps a national clinical director—to champion health services for deaf people? The clinical directors that the department and NHS England have taken on have been outstanding in giving leadership in relation to a number of clinical areas. I wonder whether, for deaf people in particular, having a champion at national level could help disseminate information and really bang heads together to ensure that much more focus is given to the needs of these people.

Secondly, will the Minister encourage Healthwatch to continue to build on its work to give specific focus on services for deaf people?

Thirdly, will the Minister encourage health and well-being boards at local level to pick up our concerns about across-the-board services? The noble Lord, Lord Addington, made a very strong point about the role of the Minister for the Disabled at national level. At local level, the health and well-being boards could clearly carry out that same function.

Fourthly, will the Minister encourage the development of clinical networks in each local health area so that there is co-ordination of services across primary, secondary and tertiary care as regards the needs of deaf people?

Finally, will the Minister institute regular meetings between deaf organisations and the NHS within each local health area so that there can be proper discussion and debate about the needs of deaf people?

This is a very important debate and I am sure that we all look forward to a positive response from the Minister.

8.03 pm

Baroness Jolly (LD): My Lords, I thank the noble Lord for securing this short debate on the health of deaf people, and I welcome the opportunity to discuss the serious concerns that he raises. This has been a really good, well informed debate and many excellent questions have been asked. I would point out that my scripted speech is six-minutes long, so I hope to answer as many of the other questions as possible within the rest of the time available to me. However, in tested and time-honoured tradition, I will send a letter to all noble Lords to address anything that I have not covered.

I would also like to take this opportunity to pay tribute to the work of SignHealth and the efforts that it has made to achieve equal access to healthcare and better health outcomes for deaf people. The findings outlined in its recent report, *Sick of It*, are truly shocking. The fact that deaf people are more likely to have undiagnosed conditions such as high blood pressure and diabetes and that they are more likely to receive inadequate treatment when they are diagnosed, is completely unacceptable. This Government are committed to delivering health outcomes that are among the best in the world for people with hearing loss.

Before getting to the main issue of the health of the deaf population, I would like to spend a few seconds outlining service improvements to those with hearing loss or who are deaf. These include the rollout of a national screening programme for newborn children; significantly reduced waiting times for assessment and treatment, with almost all patients now treated within 18 weeks, with the average being four and a half weeks; and greater choice of hearing aid services—for example, through independent high street providers. In particular, by taking forward measures which enable the early identification of deafness, we are able to provide a clear care pathway for services and enable parents to make informed choices on communication needs.

However, as SignHealth's report shows, it is in the most basic way that we are failing deaf patients. Small adjustments could make a real difference by enabling those with hearing loss to communicate with their health providers. Have services thought about how deaf patients can book a GP appointment if they cannot just pick up a telephone? Once they have made an appointment, will they know when their name is called or will they be left sitting in the waiting room? Once they get to see their GP or hospital clinician, will they be able to communicate with them? I am sure that SignHealth would readily identify with the questions I have posed.

The noble Lord, Lord Addington, talked about the use of technology in communication, and he brings his personal knowledge to bear. Online signing is something that might be sensible, and an intelligent use of services such as Skype might also be helpful. Critical to all of this—and I shall come to it later—is the co-commissioning of these sorts of services. That sort of approach would not only give patients their dignity but also help make the GP's job more straightforward.

The noble Baroness, Lady Howe of Idlicote, urged noble Lords to carry out checks in their own practices. I do not think that anyone would dare not to do so after that. Certainly with my own practice in Bodmin, in the heart of Cornwall, I can book online to see a doctor or a nurse. When I turn up for a visit I do not talk to a receptionist, I just press a touch-screen pad which asks me for my date of birth and my gender. It then says, "Ah! Are you Mrs Jolly?", and tells me to sit down and wait. All those services would work perfectly well with deaf people and there is no reason why they should not be replicated throughout the land. What happens behind the consulting room door may not be as good as all of that—I just do not know.

There are currently over 10 million adults in England living with hearing loss; the World Health Organisation estimates that by 2030 the figure will rise to 14.5 million. It is therefore vital that health and social care services are geared up to be able to communicate with deaf people and those with hearing loss in order to promote good health and address their health needs. All options should be considered. The noble Lord, Lord Hunt, told the House about the public sector equality duty. This requires all public bodies, including those who provide health and social care, to, "advance equality of opportunity" and to,

"have due regard to the need to eliminate discrimination".

SignHealth's *Sick of It* report is right to remind deaf people that they have a right to complain when a service provider has not taken their particular needs into account. However, it is up to the service providers to anticipate the requirements of disabled people and the reasonable adjustments that may have to be made for them in advance, before any disabled person attempts to access their service. The reasonable-adjustment duty is an anticipatory duty, so it is just not acceptable for health services not to be equipped to provide communication support for those who need it. This may involve the use of British Sign Language, but it may also involve the use of basic technology such as display screens in GP waiting rooms. It may also involve something as simple as text messaging—nearly all noble Lords referred to that—as all of us become increasingly reliant upon this and other electronic forms of communication.

My noble friend Lord Borwick talked about skills possibly being superseded by technology and referred to cochlear implants, texts and the internet. I defy any noble Lord not to be touched by the moving story of Joanne Milne as she heard for the first time this week but a lot of this will take a long time to roll out. It will take a while before the youngsters reach the age of older people who are deaf or have hearing loss. This will not be an instant fix.

I am happy to be able to report that progress is being made on the NHS information standard. As part of the commitment to improve the experience of patients using NHS services and empower people to be equal partners in their own care, NHS England is developing an information standard for the provision of accessible, personalised information. The standard will ensure that disabled patients, service users and carers receive information from NHS bodies and providers of NHS care in formats that they can understand. It also requires that they receive appropriate support to enable them to communicate with service providers. Successful implementation of this information standard will improve the health outcomes and experience of disabled people. It will also reduce the number of appointments and screening opportunities missed by patients who have received invitations or information in formats that are inappropriate for them. It is intended that the standard will be finalised in late 2014, with organisations required to comply in 2015. Alongside the statutory information standard, NHS England will publish guidance on making reasonable adjustments to meet the communication needs of service users with disabilities.

[Baroness Jolly]

We know that there is a need to improve both the commissioning and integration of health and social care services for people with hearing loss, as well as the provision of new and innovative models of care. This is why we are also developing a new action plan on hearing loss. The action plan will identify the key actions that will make a real difference to health and social care outcomes for children, young people and adults with hearing loss. NHS England is currently engaging with a range of stakeholders, including the Department of Health, Public Health England, other government departments and agencies and key stakeholders, and aims to publish the action plan as soon as possible.

I hope that I have been able to reassure the House that the Government have a strong commitment to promoting the needs of deaf people across a range of public services but, in particular, ensuring that deaf people have equal access to health and social care and improved outcomes equal to people who do not have hearing loss. Equality is the watchword.

To answer noble Lords' questions, the noble Lord, Lord Hunt, asked about the decision on psychological therapy provided in British Sign Language and where the responsibility for that should be in specialised commissioning. Following advice from the prescribed specialised services advisory group, and in consultation with NHS England, Ministers have taken the decision that responsibility for commissioning psychological therapies for deaf sign language users should remain with the clinical commissioning groups.

The noble Lord, Lord Hunt, also made five points. There was that of the national champion and how to build on the work thus far. I am happy to take that back and will write to him. On health and well-being boards, they should pick up across-the-board services. We hope that they are doing so. I suspect that health and well-being boards will, in their second report for this coming year, pick up on that sort of thing if they are not doing so already. On co-ordination of services, again, it should be within the gift of health and well-being boards to ensure that social care and all health services are not only properly commissioned but also properly co-ordinated. It sounds an admirable idea that there should be regular meetings with the NHS in each local area for people with hearing loss and deafness. I imagine many people with other sorts of disability would like to see that as well. Perhaps that is something that Healthwatch might be able to facilitate.

Do GPs have to pay for their translation services? Each provider of a public service is responsible for ensuring that they make reasonable adjustments to meet the needs of disabled people. This is not funded centrally but must be found from within local budgets.

The noble Lord, Lord Addington, asked about co-ordinating help for deaf people in other fields, such as education and employment. The Minister of State for Disabled People, in his capacity as chair of the interdepartmental group on disability, recently wrote to Ministers in other government departments to ask what their departments are doing to support their deaf users.

On the questions of the noble Lord, Lord Ponsonby, about plans to ensure that NHS Choices increases the number of videos available in BSL, NHS Choices is very keen to provide more BSL content. It has approached SignHealth and in turn secured funding for the existing BSL videos. Noble Lords might be interested to know that there are videos available on: breast cancer, diabetes, heart disease, lung cancer, prostate cancer, back pain, depression and low mood, getting tested for Chlamydia, preventing high cholesterol and tinnitus. Those are the ones currently signed.

What would the Minister recommend to a deaf person who wants to see a doctor but is told that no interpreter is available? We recommend that they lodge a formal complaint with the GP practice. If the complaint is not resolved, we recommend that the complaint is escalated to CCG or NHS England as set out in the complaints procedure.

What does the Minister think would be the best way to raise deaf awareness among staff working in the health service? It is ultimately the responsibility of individual employers to support the development of the staff they employ. However, Health Education England will provide leadership and work with local education training boards—LETBs—regulatory bodies and health care providers to ensure professional and personal development continues beyond the end of formal training.

What steps will the Government take to encourage NHS England and Public Health England to promote the health of deaf people? The NHS is a universal service for the people of England and NHS England is under specific legal duties in relation to tackling health inequalities and advancing equality. The Government will hold NHS England to account for how well it discharges these duties.

Can we expect NHS computer systems to be able to tell us how many deaf people there are and which services they are accessing? The short answer is regrettably no, not yet. However, the new system being commissioned by NHS England to upgrade the hospital episodes statistics—the HES service—will mean that they include a richer source of hospital data, plus data from care provided outside hospital. While this will not tell us how many deaf people there are, it will tell us about deaf people's access of services. I am sure other improvements to care data in time will be able to give us the number of deaf people there are.

Will implementation of the proposed information standard be supported by a funded programme which can help to educate and support? As part of the engagement activity, we asked health and care professionals and organisations to advise us as to the challenges they experience in meeting the communication needs of patients, carers and services users, as well as the ways they have identified to overcome the challenges. These will be reviewed. The intention is that the findings will inform the drafting of the standard itself and the development of supporting tools. Regarding the psychological therapies question, following a device from the prescribed specialised services group, Ministers have decided that these services should be commissioned by CCGs.

I move on to the question of the noble Lord, Lord Borwick: what can be done to encourage more teachers to work in this specialist area? Schools and local authorities are responsible for assessing their workforce and have adequate recruitment and training strategies in place. We expect authorities to work with schools so that they know and build the appropriate skills for the teaching workforce, and the DfE is funding scholarships for teachers to develop their knowledge and skills, including postgraduate qualifications. Regarding the question of texting information, this sort of thing is a local decision. I have told noble Lords how my local GP practice chose to sort it, and others may choose to use texts.

On teacher numbers, so far 600 teachers have achieved or are working towards a qualification relating to special education needs, and a further 500 have applied for the current funding round. I have exhausted the supply of responses from the Dispatch Box, but I feel absolutely sure that when we go through *Hansard*, many more questions that will come to light, so we will write a letter to all noble Lords who have taken part in the debate.

House adjourned at 8.21 pm.

Grand Committee

Monday, 31 March 2014.

Arrangement of Business

Announcement

3.30 pm

The Deputy Chairman of Committees (Lord Colwyn) (Con): My Lords, welcome to the Grand Committee. If there is a Division in the House, the Committee will adjourn for 10 minutes.

European Parliamentary Elections (Amendment) Regulations 2014

Motion to Consider

3.30 pm

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

That the Grand Committee do consider the European Parliamentary Elections (Amendment) Regulations 2014.

Relevant document: 22nd Report from the Joint Committee on Statutory Instruments.

Lord Wallace of Saltaire (LD): My Lords, the first five instruments before us today are for debate together. The two sets of referendums regulations and the police and crime commissioner elections order update respectively the rules for the conduct and administration of local authority council tax referendums, referendums concerning a local authority's governance arrangements in England, and elections of police and crime commissioners in England and Wales. In the main, they do so by applying or copying provisions 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. Noble Lords will be familiar—possibly by now very familiar—with many of these measures, which we have considered in earlier debates on instruments which apply the measures for the conduct of other elections and referendums.

The combination of polls regulations make a small number of changes to the conduct rules and forms used by voters that apply when the poll at a parliamentary election is combined with a poll at another election or referendum. The European parliamentary elections regulations clarify certain issues, mainly arising from the changes made for the conduct of European parliamentary elections by amending regulations made in 2013.

In the main, the changes introduced by all five 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 implement a number of recommendations which have been made by, among others, the Electoral Commission and the Association of Electoral Administrators.

The two sets of regulations concerning local authority council tax and governance referendums contain an additional provision on calculating the campaign expenditure limit for campaigners at these referendums. We intend that this should come into force on the day after the two instruments 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.

I turn to the provisions in the two sets of regulations concerning local authority council tax and governance referendums, and the PCC elections order. The two sets of referendums regulations change the basis on which the campaign expenditure limit is calculated for local authority council tax and governance referendums. It 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 council tax referendum, and at least 56 working days before a local authority governance referendum.

All three instruments, including the PCC elections order, update the forms used by voters, such as poll cards and postal voting statements, which are intended to make the voting process more accessible. The instruments 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 allow them to provide greater visible reassurance to the public. The instruments provide that voters waiting in the 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 revisions in the Representation of the People (England and Wales) Regulations 2001 apply to the local authority council tax and governance referendums instruments, so amendments recently made to those regulations will apply also to these referendums, without the need for further changes to the referendums instruments. Further, the provisions have been copied into the Police and Crime Commissioner Elections (Amendment) Order so that they will apply to those polls. These recent amendments include a requirement for 100% of postal vote indicators to be checked rather than the current minimum of 20%; extension of emergency proxy provisions to those absent on grounds

[Lord Wallace of Saltaire]
of business or military service; removal of the restriction on postal votes being dispatched earlier than the 11th working day before the day of the poll.

The Police and Crime Commissioner Elections (Amendment) Order also makes changes to the timing of certain proceedings at PCC elections which will ensure greater consistency with the position at other elections and will facilitate the earlier dispatch of postal votes. In particular, the deadline for candidates to withdraw their nomination is moved from noon on the 16th working day before the poll to 4 pm on the 19th working day before the poll. This will allow postal ballot papers to be printed and therefore issued earlier than at previous elections.

I now turn to the combination of polls regulations. These regulations make a small number of changes to the conduct rules and forms used by voters that apply when the poll at a parliamentary election is combined with a poll at another election or referendum. This includes updating the notice that must be displayed in polling station compartments by making the information clearer for voters. For example, it advises voters to put a cross in the box next to their choice on the ballot paper. The instrument also updates the guidance of voters which is displayed in polling stations when a poll at a parliamentary election is combined with a poll at another election or referendum. The updated guidance gives clearer instructions to voters, including the use of images, to help voters cast their votes.

I turn now to the fifth and final instrument, the European Parliament elections regulations. They, too, make a small number of changes at European parliamentary elections. In particular, they amend the provisions that were inserted by the amending regulations made in 2013 to enable voters waiting in the queue at the close of poll to be issued with a ballot paper and cast their vote at a European parliamentary election. These provisions also enable persons queuing at the polling station at the close of poll in order to return a postal ballot paper or, if they had forgotten to put it in the covering envelope, a postal voting statement to return it.

The instrument before us today ensures that these provisions allowing the return of postal ballot papers apply when a European Parliament election is combined with another poll in England, Wales and Scotland. They also make improvements to the wording on the polling station compartment notice when a European parliamentary election is combined with another poll in England and Wales. The changes reflect the different voting instructions that it may be necessary to display if a European Parliament election is combined with a PCC election or a local referendum because these will, of course, have different voting systems.

In conclusion, these instruments make sensible and relevant changes to the conduct and administration of the polls that they cover in line with those that have been made for UK Parliamentary elections and other polls. 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 (Lab): My Lords, I have only a few points to make in this short debate. Generally we support the regulations and the order and have no issues whatever with them. I have a couple of general points to make and one or two questions, but, generally speaking, we are fine with these. I will go through point by point. In terms of consultation, I think the noble Lord mentioned a couple of times consultation with the commission and with the Association of Electoral Administrators and such. Can he tell us about what consultations actually go on with the parties? I do not think much goes on. Maybe it is done through the Electoral Commission now, but I do think there should be more direct contact with the parties than there has been. I know that we have the panel meeting after the Electoral Commission's political parties panel but I do not know whether there is more than that. There would be a surprising amount of unanimity from the parties on these things, as they have a lot of expertise that the Government could learn from. I know that the Government have some contact, but they could do more on that.

I saw in the note about the regulations on referendums that it refers to the issue about queuing at polling stations. Again, I welcome the fact that people will be issued with a ballot paper if they get there by 10 pm. My only slight worry is that while that all sounds well and good, how will it actually be controlled when it happens? We may not have this situation in the local elections happening next month, and perhaps not in the European elections, but at general election time we certainly need to think about how we will look after that. Yes, someone could arrive at 10 pm, but how is that to be controlled? It is quite hard to control and police it, and so on. The Government can make these regulations, but unless they are very specific about how things actually happen, they will just create another set of problems that cannot be overcome in a draughty church hall somewhere at 9.55 pm. If not now, the Government need to look at that sort of thing and be very specific. Presiding officers certainly need to know exactly how to handle these things; there is an issue there.

The point about police community support officers having the right to enter polling stations is, again, a sensible and welcome move. It certainly lifts a burden from police officers and ensures that there can be a uniformed presence in and around polling stations, which is very welcome. I saw that there is an extension of the proxy emergency provisions on the grounds of doing business or service. I am assuming that they are being extended in the same way as for every other category that can have an extension.

Those are probably the only points that I have. As I said, I do not have a huge issue with anything here; the instruments all seem very sensible. I will make one observation. While we will agree these regulations today, and they will go to the House next week, it is all terribly complicated and I look forward very much to the Law Commission coming forward with its recommendations so that we can get something much more streamlined. This should be a relatively simple process, but we have to have instruments for referendums,

police and crime commissioner elections and local authority elections when it is really all the same stuff. The sooner we get this all looked at and repackaged, and put together much more sensibly, the better it will be for everyone concerned.

Lord Wallace of Saltaire: I share the noble Lord's feeling on streamlining. There are of course some problems in that, as we have devolved authority to the devolved Assemblies, and as we have introduced a number of different electoral systems—I think there are three or four electoral systems operating now within Scotland, for example—some of this stuff becomes more complicated. We are, as the noble Lord knows, balancing between doing everything we can to make it easier for people to vote and encouraging that, and guarding against fraud. That also requires a delicate balance. However, I agree with him: I hope that it will be possible at some point to simplify the extremely complicated legislation that we now have for these different sets of elections and referendums. Referendums are, after all, still a relatively new dimension of British democracy and perhaps the next Government will take that on, with the assistance of the Law Commission.

On the particular questions that the noble Lord asked, there is no formal process for consultation with the political parties, but I understand that a number of informal conversations are had with them. I will check on that and I promise to write to the noble Lord if there is anything useful that I can say on it, because I take his point about the political parties. Miraculously, I discover that I now have an answer. We meet the Electoral Commission's political parties panel quarterly and raise the question of new SIs being made. I expect that the noble Lord will be familiar with who attends the political parties electoral panel from the Labour Party. It may indeed have been him—yes, I see that it was.

On the closing of polls, let me say in passing that this was a very small issue last time. It happened in a total of 27 polling stations in 10 constituencies at the 2010 election, with just over 1,200 people being affected. We do not know whether this will turn out to have been a one-off or whether it will become a wider phenomenon in future. We took this decision because we had come up with this problem in 2010, and we expect that the Electoral Commission will provide additional guidance on how we manage this in the future. The noble Lord is entirely right, of course, to say that a situation in which a large number of people attempted to storm a polling station at 10 pm would be very difficult for anyone to handle. We have to hope that that sort of event will not happen. Guidance will certainly be offered to returning officers on the close-of-poll provisions and the Electoral Commission will assist with that. I hope that I have now covered most of the noble Lord's questions. I am glad that these regulations have received a general welcome and commend them to the Committee.

Motion agreed.

Local Authorities (Conduct of Referendums) (Council Tax Increases) (England) (Amendment No. 2) Regulations 2014

Motion to Consider

3.45 pm

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

That the Grand Committee do consider the Local Authorities (Conduct of Referendums) (Council Tax Increases) (England) (Amendment No. 2) Regulations 2014.

Relevant document: 22nd Report from the Joint Committee on Statutory Instruments.

Motion agreed.

Local Authorities (Conduct of Referendums) (England) (Amendment) Regulations 2014

Motion to Consider

3.46 pm

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

That the Grand Committee do consider the Local Authorities (Conduct of Referendums) (England) (Amendment) Regulations 2014.

Relevant document: 23rd Report from the Joint Committee on Statutory Instruments.

Motion agreed.

Police and Crime Commissioner Elections (Amendment) Order 2014

Motion to Consider

3.46 pm

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

That the Grand Committee do consider the Police and Crime Commissioner Elections (Amendment) Order 2014.

Relevant document: 22nd Report from the Joint Committee on Statutory Instruments.

Motion agreed.

Representation of the People (Combination of Polls) (England and Wales) (Amendment) Regulations 2014

Motion to Consider

3.47 pm

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

That the Grand Committee do consider the Representation of the People (Combination of Polls) (England and Wales) (Amendment) Regulations 2014.

[Lord Wallace of Saltaire]

Relevant document: 22nd Report from the Joint Committee on Statutory Instruments.

Motion agreed.

Anonymous Registration (Northern Ireland) Order 2014

Motion to Consider

3.48 pm

Moved by ***Baroness Randerson***

That the Grand Committee do consider the Anonymous Registration (Northern Ireland) Order 2014.

Relevant document: 22nd Report from the Joint Committee on Statutory Instruments.

The Parliamentary Under-Secretary of State, Wales Office (Baroness Randerson) (LD): My Lords, the order was laid before the House on 24 February. It is the first in a series of six statutory instruments to establish a scheme of anonymous registration in Northern Ireland. Four of those instruments were published for consultation in September of last year. The changes are being introduced in a series of instruments for technical reasons.

This first order extends provisions made for Great Britain in primary legislation to Northern Ireland, with amendments to reflect some differences in the electoral systems in Northern Ireland. It also makes other changes required to primary legislation for Northern Ireland, predominantly in relation to local elections. Other instruments to follow will include regulations to implement the system of anonymous registration in respect of different elections and to prescribe provisions relating to political donations by anonymous electors.

As noble Lords will know, the full electoral register lists the name and address of everyone who is entitled to vote. This is used mainly for elections and referendums but can be used for other purposes, such as the prevention and detection of crime and eligibility for jury service. It may also be seen on request by any member of the public, under supervision. Anonymous registration ensures that the names and addresses of individuals who are at risk do not appear on the full register. Those at risk may include victims of domestic violence, witnesses in certain criminal cases and other vulnerable people who wish to vote but whose safety could be compromised by the inclusion of their details on the electoral register.

As in Great Britain, individuals will qualify for anonymous registration if the safety of the applicant or of another person in their household would be at risk if the register contained their name or address. I will bring regulations before the House later this year which will detail the evidence required to show that a person is at risk. As in the draft regulations published last September, a person will be able to show that they are at risk either by presenting a court order demonstrating the risk or by obtaining an attestation from a senior professional—for example, someone in the police—stating that they are at risk.

If a person is shown to be at risk, the scheme works by replacing the name and address of vulnerable individuals in the register with a number. A full list of those voters will be held securely by the chief electoral officer for cross-referencing. This prevents their details being available to someone who might try to trace their whereabouts by means of the electoral register.

Anonymous registration was introduced in Great Britain by Section 10 of and Schedule 1 to the Electoral Administration Act 2006. The scheme was not extended to Northern Ireland at the time due to a number of differences in Northern Ireland that needed to be taken into account. These differences included the additional checks on identity used in Northern Ireland to prevent electoral fraud, and the operation of the jury system in Northern Ireland. However, Section 1 of the Northern Ireland (Miscellaneous Provisions) Act 2006 gave the Secretary of State the power to make equivalent provision for Northern Ireland by Order in Council at a later date.

Many of the Great Britain provisions are extended to Northern Ireland without amendment in this order, but there are four main differences between the provisions for Great Britain and those being put in place for Northern Ireland, either in this order or in the instruments that will follow.

First, the duration of an anonymous entry will be longer than it is in Great Britain. Applications for an anonymous entry must be made annually in Great Britain, in the same way as applications for registration. In Northern Ireland, an anonymous entry can last for a maximum of five years. This makes practical sense in the context of the continuous registration system in Northern Ireland. If persons do not have to reapply to be registered annually, it would be onerous to require vulnerable individuals to reapply for an anonymous entry on an annual basis. This difference is also intended to help the PSNI and other bodies manage the greater volumes of applications for attestations that are expected in Northern Ireland because of the security situation there and the number of people who may be considered at risk.

In view of the longer, five-year timeframe in Northern Ireland, this order allows the chief electoral officer to terminate a person's entitlement to an anonymous entry in some circumstances. The regulations brought forward later this year will set out the details of how the chief electoral officer can make this determination. For example, if the chief electoral officer receives information that a person is no longer part of the household to whom the relevant evidence applies, their entitlement to anonymous registration should be reviewed.

Secondly, as noble Lords will be aware, all voters in Northern Ireland are required to show photographic identification at the polling station to receive their ballot paper. This is incompatible with the principle of maintaining a voter's anonymity and so, under this order, those with an anonymous entry will not be able to vote in person. Instead, this order makes provision for anonymous electors to be automatically eligible for

a postal vote. This is to prevent a person who is anonymously registered being questioned at a polling station about their identity.

Thirdly, linked to the provisions on postal voting, the order makes it possible for an anonymous elector to submit a tendered ballot paper by post. It is possible to apply for a tendered ballot paper when a person states that they have lost their ballot paper or believes someone else has voted on their behalf. However, a tendered ballot paper can usually be submitted only in person at the polling station. Persons with an anonymous entry will be allowed to submit a tendered ballot paper by post instead to prevent them being disadvantaged by the requirement to use a postal vote.

Lastly, persons with anonymous entries will remain eligible for jury service, as they are in Great Britain. However, because jury service selection operates in a different way in Northern Ireland, the provisions in this order that deal with this matter differ from the England and Wales provisions. The order ensures that any anonymous elector information is protected when the jurors list is passed from the chief electoral officer to the Courts and Tribunals Service.

There have been two phases of consultation on anonymous registration in Northern Ireland. The first was conducted by the previous Government in 2008. The second took place in 2013 on the draft legislation. The consultations have allowed us to take account of the views of a range of devolved bodies that will be involved in implementing the scheme, including the Northern Ireland Courts and Tribunals Service, the Police Service of Northern Ireland and health and social care boards, as well as political parties and groups representing those most likely to benefit from the new system.

I hope that noble Lords will agree it is important that people who wish to exercise their right to vote are able to do so without fear or threat to their safety. This order gives vulnerable people in Northern Ireland the same protection as those in Great Britain. I commend it to the Committee.

Lord McAvoy (Lab): My Lords, I am grateful to the Minister for her thorough exposition of the proposed legislation. I should say right from the start—because it always needs to be said in relation to Northern Ireland—that we are fully supportive of the legislation. My honourable friend in the House of Commons, Stephen Pound, in a very entertaining speech, asked a number of questions. Some of them were not, to my book, completely answered, so I will go through them and see if I can get a wee bit more information out of the noble Baroness.

It has been stated by the Minister and others that the necessity for this legislation in Northern Ireland is—as it is in the rest of the United Kingdom—mainly to support women in what they face when being pursued by former partners or husbands or subjected to violence. So the legislation is quite in order.

However, on the higher percentage that is envisaged, it is worth commenting that the higher percentage of anonymous voting approvals for Northern Ireland is, according to the words of Mr Robathan, 40 times greater in Northern Ireland than in the rest of the United Kingdom. That signifies that there is a continuing situation in which people need anonymity in voting, and the sooner we can move away from that, the better. However, the need for this legislation is still quite clear because women have enough to put up with without being subjected to that as well.

4 pm

I will follow up something that Mr Pound mentioned, which is the status of court orders from the Republic of Ireland. As noble Lords will know, people move back and forth across the border. A situation can arise in which somebody in Northern Ireland marries someone from the Republic and then moves back to the north. It is clear from what the Minister said in Committee that is not legal to mention other jurisdictions—I think that was the word used, but if not, the noble Baroness will know what I mean. There was therefore a legal bar in establishing full reciprocity. Mr Robathan, the Minister in the Commons, said that in the process of attestation great weight would obviously be given to a court order in the Republic of Ireland. Can the Minister elaborate a bit more on that? It would mean a bit more protection for people moving from the Republic to Northern Ireland if a heavy weight was given to reciprocity.

Mr Pound also mentioned another thing, which he did not seem to get an answer to. The attestation of the validity of the anonymisation approvals are directors of social work or PSNI officers of the rank of inspector or above. He made the point that there are only five directors of social work services in the whole of Northern Ireland and Wales; I do not think that anybody is sure about the number of inspectors. Is that situation okay?

Paragraph 7.4d of the Explanatory Notes says:

"There are also differences between Northern Ireland and Great Britain in the way in which persons with an anonymous entry in the electoral register are selected for jury service. Persons with anonymous entries on the register will automatically be considered for jury service, rather than the juries officer having to make a specific request for details of anonymous entries, as is the case in England and Wales".

The key bit follows:

"Specific provision is made to protect information of anonymous electors which is disclosed as part of the jury selection process".

How will that work? I am not clear about that. There has been consultation on this, and it has been supported, so it has to be welcomed.

I hope that we will have a wee bit more elucidation on the points raised in questions by Mr Pound, but I repeat that we are fully supportive of the Government's proposals in this field. They are absolutely necessary, and they have our full support.

Baroness Randerson: I thank the noble Lord for his support on this. I will do my very best to answer the questions that he feels still need to be answered.

The noble Lord is right that the issue of supporting victims of domestic violence is a key mover behind the legislation. It was introduced for Great Britain very specifically at the request of groups supporting victims of domestic violence. But it is also aimed at supporting, for example, people who are part of the witness protection

[Baroness Randerson]
scheme. I am sure that the noble Lord will appreciate that there are far more people in that situation in Northern Ireland than in Great Britain.

There are currently 1,739 people in the anonymous registration scheme in Great Britain. My right honourable friend the Minister of State in the other place referred to the expectation that there would be around 40 times that number in Northern Ireland. This figure is based on the numbers known to have benefited from existing programmes to protect individuals at risk; for example, 1,805 individuals have benefited from the special purchase of evacuated dwellings scheme in Northern Ireland. Of course, this is just one group of eligible individuals. I mentioned the witness protection scheme earlier, but members of other groups might be judged to be at risk, such as prison officers. I could give other examples, but that one number—1,805—shows that proportionately the numbers would be around 40 times greater for Northern Ireland. Therefore, one of the reasons that the anonymous registration will apply for a five-year term is to enable those involved in the registration and attestation process to deal effectively with the number of requests that we estimate will come forward.

The noble Lord also asked whether Irish court orders would be recognised and treated in a spirit of reciprocity. It is very unusual to reference court orders from outside the UK in domestic legislation because to do so would prevent Parliament scrutinising changes to the law. The Government recognise that it is highly likely that some people at risk in Northern Ireland will be beneficiaries of an Irish court order. On the subject of domestic violence, people marrying across the border—with one partner from the Republic and one from Northern Ireland—is obviously a very common thing. Therefore, we will make clear in guidance that, when an attestation is considered, if an applicant holds a similar injunction to those listed in the order from Ireland or any other member state of the EU, an attestation will be made. It is not done in an identical manner. A court order would mean that the anonymous registration would be automatic. An Irish court order would lead to an attestation process, as I understand it. It is important to bear in mind that there is a legal issue here; that is why this is being dealt with in this way.

The noble Lord asked about the level of the staff who will make the attestations. As the number of people registered anonymously is likely to be higher than in the rest of Great Britain, it is important that attestation is seen to be no less rigorous than in Great Britain and that it is very rigorously applied. The Government remain of the view that only people who are eligible to attest applications in relation to Great Britain would also be eligible to attest applications in relation to Northern Ireland. So the process will apply at the same level in both cases. It should not be necessary, however, for people applying for anonymous registration to go in and meet the director of social work or the chief constable. We would expect applications to be considered at a lower level within the organisation, and a recommendation would then be made higher up the chain within the organisation. We have consulted the Department of Health, Social Services and Public Safety in relation to the seniority of social workers who will be eligible to attest applications for anonymous registration. In the case of the PSNI, the attestation will be made at the level of superintendent and above.

I hope that I have answered the noble Lord's questions and I commend the order to the Committee.

Motion agreed.

Misuse of Drugs Act 1971 (Ketamine etc.) (Amendment) Order 2014

Motion to Consider

4.12 pm

Moved by ***Lord Ahmad of Wimbledon***

That the Grand Committee do consider the Misuse of Drugs Act 1971 (Ketamine etc.) (Amendment) Order 2014.

Lord Ahmad of Wimbledon (Con): My Lords, this order was laid in Parliament on 5 March. If made, the order will specify two groups of new psychoactive substances from the N-BOMe and benzofuran families, as well as their simple derivatives, as drugs subject to permanent control under the Misuse of Drugs Act 1971. The order will also control a number of medicines, namely lisdexamphetamine, zaleplon, zopiclone, and tramadol. It will also reclassify ketamine under the 1971 Act.

The Government have received recommendations from the Advisory Council on the Misuse of Drugs that these drugs are being misused, or likely to be misused. In the ACMD's view their misuse is having, or is capable of having, sufficiently harmful effects to warrant legislative action under the 1971 Act. My honourable friend the Minister for Crime Prevention was satisfied after consideration of the latest available evidence and the ACMD's assessments that the conditions that have to be satisfied in order to place these drugs under permanent control were met.

Legislative action is necessary as a result of the potential harms identified by the ACMD. This action will send out a strong message to those who are considering experimenting with these drugs and enable us to target our public health messaging in order to protect the public. It will also enable enforcement partners to prioritise resources accordingly to tackle the availability of these drugs.

N-BOMe compounds are highly potent, new psychoactive substances that are regarded as legal alternatives to the class A drug LSD. Noble Lords will recall that a number of these compounds are currently subject to a temporary class drug order approved by the House. These compounds are permanently controlled as class A drugs under the 1971 Act. Clinically observed health effects of the N-BOMe compounds include hypertension, agitation and aggression, visual and audio hallucination and seizures. Anecdotal evidence from self-reported users also highlighted highly negative effects and unwanted feelings including confusion, shaking, nausea, insomnia, and paranoia. These compounds are extremely potent in powder and liquid form and have a high risk of overdose when misused.

On benzofuran substances, compounds such as 5-APB and 6-ABP are marketed as legal forms of ecstasy. They are most commonly sold under the brand name Benzo Fury. Noble Lords will recall that a number of these compounds are also controlled as temporary class drugs. These compounds are being permanently controlled as class B drugs. The effects of the benzofuran compounds include insomnia, increased heart rate and anxiety, with some users reporting ecstasy-like symptoms. Several deaths and hospitalisations in the UK have been associated with the use of these compounds. There are also risks associated with the long-term use of these compounds, such as cardiac toxicity. As in previous cases, the N-BOMe and benzofuran compounds will be controlled using generic, or group, definitions which capture closely related compounds. This will reduce the risk of chemists tweaking the chemical structures of the compounds being controlled to circumvent our drug laws.

Lisdexamphetamine, a drug closely related to the class B controlled drug dexamphetamine, was introduced to the UK medicines market in March 2013. When administered orally, lisdexamphetamine gradually converts to dexamphetamine, the class B drug. Lisdexamphetamine is being controlled as a class B drug. The ACMD reports that lisdexamphetamine has the potential to occasion the physical and social harms associated with amphetamines as a group, although there may be more differences. Physical effects can include anorexia, insomnia, dizziness, headaches and hypertension. After chronic or high doses, convulsions, heart attacks, strokes and death have also been reported.

Zopiclone and zaleplon are sedatives closely related to the benzodiazepine family of drugs and zolpidem, controlled as class C drugs. The ACMD reports that the number of UK prescriptions for these drugs compared to prescriptions for benzodiazepines has been on the increase. The ACMD reports that the harms from the misuse of these two drugs include a risk of coma, respiratory depression and death associated with the use of excess doses of the drugs in combination with alcohol or other central nervous system depressants. Other reported psychosocial effects include depressed mental activity and alertness, memory loss and amnesia, and personality and mood changes through drowsiness, disinhibition, chronic paranoid behaviour and aggression. Data from the national program on substance abuse deaths—NPSAD—also suggests that these drugs play a minor role in drug-related deaths in the UK, mainly in combination with other central nervous system depressants and principally implicated in episodes of intentional poisoning. The ACMD report concludes that, due to the similarities in the chemical structure and effects of these drugs and benzodiazepines, the potential social harm from the misuse of zopiclone and zaleplon would be similar to the social harms associated with the misuse of zolpidem and the benzodiazepines.

Turning to tramadol, it is of significant medical use for treating moderate to severe pain. It has wide-ranging applications, including the treatment of chronic widespread cancer and musculoskeletal pain. However, tramadol, similar to other psychoactive agents, can be misused. Tramadol's pharmacological profile increases the risk of adverse effects seen in overdose. Overdose results in drowsiness, constricted pupils, agitation, rapid heartbeat, hypertension, nausea, vomiting and sweating. Seizures are more common with tramadol overdose than with other opioids and occur in up to 15% of cases. In severe poisoning coma, seizures and hypotension—low blood pressure—can occur.

The ACMD's consideration of tramadol was prompted by concerns from healthcare professionals about the growing misuse of the drug. It revealed an increase in the number of NHS prescriptions for tramadol—from 5.9 million in September 2005 to 11.1 million in September 2012—wide availability on the internet, and an increasing number of deaths in which tramadol was mentioned: 87 mentions on death certificates in 2009 went up to 154 in 2011, representing an increase of 77%. The ACMD reports that the majority of tramadol-related deaths occur where it has been obtained through non-prescribed means. However, overprescribing is also believed to contribute to diversion and misuse.

Ketamine is a synthetic drug used in medical and veterinary practice. It is used as a dissociative anaesthetic and a pain reliever. The ACMD first considered the recreational use of ketamine in 2004, and following its advice ketamine was brought under class C control in 2006. The ACMD reports that evidence of harms from misuse has developed over the years. In addition to well known harms such as increased heart rate and cardiac output, high blood pressure, hallucinations and experiences of alternate realities similar to those found in schizophrenia, long-term ketamine misuse is now known to be associated with a range of chronic problems including chronic bladder and other urinary tract pathology, and damage to the gall bladder, central nervous system and kidneys. The ACMD also reports evidence of acute and chronic toxicity associated with ketamine misuse.

Social harms associated with ketamine use are reported to include a negative impact on families, social skills and participation in social activities. Large doses of ketamine are also known to induce dissociation—intense detachment that can be unpleasant and frightening and can put the user in a position of vulnerability to robbery, assault or, in extreme cases, rape. For all of these reasons, the Government accepted the ACMD's advice to permanently control these drugs under the 1971 Act and reclassify ketamine as a class B drug. It is intended to make two further related statutory instruments that will be subject to the negative resolution procedure.

The Misuse of Drugs (Designation) (Amendment) (No. 2) Order 2014 will amend the Misuse of Drugs (Designation) Order 2001 to place the N-BOMe and benzofuran compounds in part 1 of the order as compounds to which Section 7(4) of the 1971 Act applies, as they have no known legitimate use outside research. Their availability for use in research will be enabled under a Home Office licence. Drugs that have legitimate uses as medicines will be scheduled appropriately in one of four schedules under regulations to ensure their continued availability and use in healthcare. Specific requirements will be applied to each of these depending on the schedule in which they are placed under the regulatory framework to prevent their diversion and misuse.

[Lord Ahmad of Wimbledon]

The Misuse of Drugs (Amendment) (No. 2) and the Misuse of Drugs (Safe Custody) Regulations 2014 will amend the Misuse of Drugs Regulations 2001 to place lisdexamphetamine in Schedule 2, zopiclone and zaleplon in Part 1 of Schedule 4, and tramadol in Schedule 3 to the 2001 Regulations. These regulations will further place tramadol in Schedule 1 to the Misuse of Drugs (Safe Custody) Regulations 1973, which means that tramadol will be exempted from the safe custody requirements. Ketamine is not being rescheduled immediately after reclassification. It will remain a Schedule 4 Part 1 drug, and will remain available for use in healthcare and veterinary practice pending a public consultation to assess the impact of Schedule 2 status, as recommended by the ACMD, later this year.

These instruments will be laid in time to come into force at the same time as the Order in Council, if it comes into force as proposed. The Government will publicise the approved law changes through a Home Office circular. I commend the order to the Committee.

The Deputy Chairman of Committees (Lord Colwyn) (Con): My Lords, I must congratulate the noble Lord on his pretty well faultless pronunciation. The question is that the Grand Committee do consider the draft Misuse of Drugs Act 1971 (Ketamine etc.) Amendment Order 2014.

Baroness Finlay of Llandaff (CB): My Lords, I echo the Deputy Chairman's congratulations. Those are pretty difficult drug names to cope with. I have a few comments and a question. The review of zopiclone is welcome. It has often been used inappropriately as a sleeping tablet and viewed as being very safe. The evidence, actually, is not that good for it in terms of patients getting off to sleep. There are lots of other things with sleep hygiene that need to happen to help people sleep. Tramadol has escalated in its prescription and has been viewed as being very safe in the way that physicians have looked at it as an analgesic. I have had a concern for some time that morphine is viewed, with caution, as inappropriate—and more cautiously than may be necessary, because it is a very good analgesic. Therefore, some of these other analgesics, such as tramadol, tend to get prescribed almost too readily and without due caution.

The one I would like to focus on is ketamine. I must declare an interest, having been on the advisory committee of the misuse of drugs sub-committee that was looking at ketamine at the time. I think it is important to record that as a group we were divided on whether ketamine needed to be reclassified. That was because of its clinical use. It is a very useful drug in an emergency. It is a battlefield drug. It has been used in major accidents when you have to get trauma victims out. The safety feature of ketamine is that patients conserve their airway: when you are operating in a collapsed building or on an accident site, when you cannot get access to the person, you may be able to do an amputation under ketamine that otherwise you would not be able to do, because the person will continue to breathe and protect their airway. In fact, they will appear to be conscious. Clinically, I used to use it when I did anaesthetics with children who had severe burns. You could give what is called dissociative anaesthesia: they could turn over and move, but they could tolerate having their dressings changed because they had the analgesia from it.

My question relates to the supply, after reclassification, to hospices where ketamine is used for neuropathic pain. There is a concern—which just fell into my inbox this morning, as it happens—that hospital pharmacies that supply hospices with drugs, particularly morphine, will now have to purchase a licence, at a cost of £5,000. They are concerned that it will make it more difficult for them to have the supply of drugs that they need. I would like a reassurance from the Minister that the legitimate therapeutic supply of ketamine, particularly to hospices and in the community for patients with severe neuropathic pain from malignant disease and from other conditions that are progressive, will not be impeded by reclassification. For some of these patients it is the only drug that will get control over their complex neuropathic pain.

I also ask the Minister whether it will fall under this licensing requirement and whether he will undertake to look at the charge for this licence, which seems to be very high. Voluntary sector hospices are trying to provide a high level of care to patients on behalf of the NHS, bearing a lot of the cost out of their own fundraising, and they want to be linked to a hospital pharmacy because of the quality control and governance assurances that go along with being linked to a hospital pharmacy.

4.15 pm

Baroness Smith of Basildon (Lab): My Lords, I am grateful to the Minister for his explanation and to the noble Baroness, Lady Finlay, for the expertise that she brings to this issue. I assume that when she said that the advisory committee to the sub-committee on the misuse of drugs was split on this issue, the kinds of issues that she was raising were ones that caused the concern. I would be interested in the Minister's comments on this one.

With such a serious subject, it is a moment of light relief to enjoy the Minister's pronunciations of the drugs involved. It is one of those rare occasions when I am grateful that I am not the Minister so I do not have to worry about the pronunciations. But the harms of ketamine and the other drugs have been recognised and are alarming. Successive drugs surveys over the past five years have shown that ketamine in particular has become established as a drug of choice for those who go clubbing and for recreational use, and many of those people will have little idea or knowledge of the dangers they face.

There is not really any strong evidence that reclassification will have any great impact on the prevalence of those drugs, and I am concerned about the public health campaigns that are needed. Very clear messaging needs to go out, and it needs to start in school. Recreational drug users in clubs are more discerning than those who are addicted to drugs, and other more vulnerable users, and are therefore more susceptible to such messages because they are legal-high users. If you have spoken to parents who have lost children, or whose children have been harmed or damaged by

recreational drug use, you will know that the messaging needs to be much stronger and much better than it is at the moment. There is a danger that the Government will step back a bit and not take a sufficiently proactive role in this regard to prevent the harms taking hold of a number of young people.

I want to press the Minister on a couple of things. One is the FRANK website. Whenever I raised these issues previously, Ministers always told me, "Ah, we've got the FRANK website". How effective is it? It seems to me that for someone to look at the FRANK website, they have to be interested in the first place and want to understand what is involved. We need to be reassured of its effectiveness. We have to aim further than those who seek out the site because clearly it does not have a wide enough reach. We are not reaching too many of the people who are recreational drug users and who go to clubs and raves but do not understand the harm they are causing themselves. I would like to hear some more not just about the FRANK website but about targeting recreational drug users.

We do not oppose this order because we recognise that there are very serious harms. In relation to ketamine, the Explanatory Memorandum talks about the,

"intense detachment that can be unpleasant and frightening and can put the user in a position of vulnerability to robbery, assault or rape".

It is not just the harm that the drug causes but the harm that is caused to the person who becomes detached and dissociated from their surroundings and therefore particularly vulnerable. There are those who are making significant amounts of money out of causing this harm to others, but I also take the point made by the noble Baroness, Lady Finlay: I am sure that the Government do not want to cause problems for those who require drugs such as ketamine for pain control or other medical purposes. If the noble Lord can give us an assurance in that regard, or even tell us that he will take this away and come back to us, that will be extremely helpful. We do not oppose this order and I am grateful to the noble Lord for his explanation.

Lord Ahmad of Wimbledon: My Lords, first, I thank both noble Baronesses and the Deputy Chairman for their kind words. It is always a challenge when you are looking to pronounce words that you are not familiar with. With two young children, now I know the challenges they face—if nothing else, it has taught me greater patience in helping them with their reading skills. Nevertheless, I thank the noble Baronesses for their broad support of the Government's position, and the Committee more widely. I trust that, as both noble Baronesses acknowledged, the Government have made the case for the order to be approved in the House on the basis of the latest available evidence and the ACMD's advice.

Approval of this order will ensure that our drug laws are effective in relation to both established medicines and newly developed pharmaceutical drugs entering the UK market that are being sought for misuse. It will also ensure that we are taking effective action on compounds that have no legitimate use outside research and which are already being pushed on to the legal-highs market.

From having done a debate on the issue of legal highs previously in the House, I think that everyone, no matter where they are in the argument, is cognisant of the fact that for anything that is banned today there will be a derivative ready and on the shelves tomorrow. This is something on which we need to be increasingly vigilant. We will of course ensure that those drugs that have a legitimate use in healthcare and veterinary practice continue to be available under a regulatory framework which protects the public from their potential harms.

Before I turn specifically to the questions that were raised by the noble Baronesses, I commend the ACMD for its continuous work and support of our priorities, including on new psychoactive substances. I have already mentioned that the fast pace of the new psychoactive market continues to require us to be ever more careful with the prioritisation of our resources, and underscores the need for closer working within a broader network of partners in the UK and abroad, and the need to preserve the integrity of our drug laws. The ACMD's advice also reminds us of the dangers of prescription medicine when misused.

I turn to some of the questions that were raised. The noble Baroness, Lady Finlay, speaks with great expertise in these areas. I listened carefully to the issues that she raised. On reclassifying ketamine, as noble Lords are aware, ketamine is already controlled and scheduled, and therefore available for legitimate use in healthcare. As a result, we are able to reclassify it without impacting on its availability for legitimate use. By reclassifying at the earliest opportunity, the Government are sending out a strong message to those who misuse the drug. I assure the noble Baroness that a final decision on scheduling will be made after a public consultation to assess the impact of its schedule 2 status, as recommended by the ACMD.

The noble Baroness asked about other issues relating to its availability. The ACMD has recommended that this subject be subject to a public consultation to assess the impact should ketamine be scheduled, as I have said. As such, ketamine will continue to remain a schedule 4 part 1 drug until a final decision is made on the schedule in which it will be placed following the public consultation.

The noble Baroness made some valid points on availability and the issue of the licensing fee, particularly for hospices. Anyone who has experienced, sometimes sadly and tragically, the absolutely sterling work that hospices do will know that, while it involves great personal tragedy for a lot of the families involved, the role of hospices in the lives of those who are perhaps at their final point is quite incredible. The Government are cognisant of the incredible role they play in community and society. I therefore say to the noble Baroness that licensing requirements will come into play only after rescheduling. I have already mentioned that in the context of the public consultation. On ketamine, I will look at *Hansard* again to see whether there are any outstanding questions.

Baroness Finlay of Llandaff: I have a supplementary question to that very helpful answer. Can the Minister assure me that the public consultation will specifically target hospices which may not be aware of, or may not

[Baroness Finlay of Llandaff]
be on the circulation list for, major consultation? They may be quite important prescribers and users of ketamine, particularly because they are away from the main hospital site, so patients can safely receive fairly potent drugs that protect their airways. That becomes particularly important.

Lord Ahmad of Wimbledon: I am sure that that is very much the case. However, I will counter the noble Baroness's suggestion by asking her, if she is aware of the names of those bodies, to please forward them, and I shall ensure that officials include them in the official notice of consultation.

The noble Baroness, Lady Smith, raised a couple of questions about talking to FRANK. I remember that when I first came across this website in local government, my first question was, "Who's Frank?", because he seemed to know an awful lot. Of course, FRANK is the website used to share information. The noble Baroness makes a valid point about ensuring that the support and information that is available should not be restricted to just one particular website. Whether we are talking about institutes of higher education or about clubs et cetera—wherever drugs may be used for recreational use—it is important that people are informed about the availability of this website. I have taken on board a couple of suggestions that the noble Baroness made. I also say to her that drugs education is part of the science national curriculum at key stages 2 and 3. Provision in this area can be built also through personal, social, health and economic discussions. The Talk to Frank website was relaunched. More than 35 million people have now used it and millions have called the FRANK helpline.

Baroness Smith of Basildon: The Minister said that 35 million people have used the website. Is that 35 million individual users, or have there been 35 million occasions on which somebody has looked at the site?

Lord Ahmad of Wimbledon: I would suggest that it is the latter: it refers to hits on the website. The noble Baroness's point is well made and I understand it.

The noble Baroness made some very practical suggestions. I think that we are all at one in believing that we need to tackle the misuse of drugs. If so-called "legal highs" are still available on the market, they should be made available in an orderly fashion. Wherever information can be shared, it should be shared as widely as possible through the healthcare system and any other social support system—the FRANK website is one such example. If there are suggestions as to where other tools can be used to ensure that we make this information more readily available, I am sure that we would all welcome them in terms of sharing best practice. As I said in my opening remarks, when I was in local government we encouraged the sharing of information through local healthcare providers and the local healthcare system to ensure that information was available to all.

Finally, on the new psychoactive substances review, the Government are conscious that more needs to be done to tackle the emergence of new psychoactive substances. This is why my honourable friend the Minister for Crime Prevention is leading a review by an expert panel on how the UK's response to new psychoactive substances can be enhanced beyond the existing measures. The expert panel's primary purpose is to look at how the current legislative framework can be strengthened, as well as at the health and educational aspects of the challenges that we face. The expert panel is expected to report its findings to Ministers in late spring.

I thank both noble Baronesses who participated in this debate for their broad support. They have both made useful suggestions on how we can move this forward. I hope that noble Lords will find that this legislative measure is conducive to ensuring that the public are protected as much possible from the harm caused by drugs that can be dangerous when misused. I commend the order to the Committee.

Motion agreed.

Criminal Justice and Police Act 2001 (Amendment) Order 2013

Motion to Consider

4.43 pm

Moved by ***Lord Ahmad of Wimbledon***

That the Grand Committee do consider the Criminal Justice and Police Act 2001 (Amendment) Order 2013.

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

Lord Ahmad of Wimbledon (Con): My Lords, I shall speak also to the draft Misuse of Drugs Act 1971 (Amendment) (No. 2) Order 2013.

The Government seek to control khat as a class C drug under the Misuse of Drugs Act 1971 to protect the public from the potential harms associated with this drug and the threat posed from its international trafficking. The legislation has been drafted to come into force on 26 May, four weeks after the Privy Council's approval.

As required, the Government have consulted the Advisory Council on the Misuse of Drugs, the ACMD, which provided a scientific assessment of the medical and social harms of khat use. We again thank the ACMD for its comprehensive report. It advised that there was no robust evidence to identify direct causal links between khat use and the associated medical harms beyond the risk of serious liver toxicity. It reported that some individuals use khat in a dependent manner. Although it concluded that it is difficult to disentangle the prevalence of khat use as a cause or a symptom of societal harms, we are concerned that we risk underestimating these harms due to the absence of robust evidence. The Government carefully considered this advice alongside broader policy factors, including some communities' concerns that khat use is associated with societal harms that affect them—especially vulnerable users and their families as a compounding factor to family breakdown, unemployment and barriers to integration.

4.45 pm

Since the Dutch Government banned khat in January 2013, new evidence has indicated that the UK is at serious risk of becoming a single regional hub for the international trafficking of khat to other EU and G7 countries. It is banned also in France and Germany. In addition, the majority of other EU countries have already controlled khat. In France, the latest seizures of khat en route to other EU countries where it is banned continue to show that it comes via the United Kingdom.

To ensure that there is proportionate law-enforcement response to khat possession offences here, we are introducing an escalation framework that has been developed with the support of the police. In addition to the use of "khat warnings" for a first simple possession offence, the separate draft order laid by the Ministry of Justice will extend the use of penalty notices for disorder to the offence of simple possession of khat when it is the second time that the offence has been committed. Anyone caught possessing khat for the third time or more will face arrest. Serious and repeat offenders involved in the illicit supply, importation and exportation of khat will face the full force of the law.

The two draft orders will be complemented by negative instruments. In accordance with ACMD advice, we will designate and schedule khat as a drug that has no recognised legitimate use beyond research. Another negative instrument will set the financial penalty for the khat PND at £60. I commend the two orders to the Committee.

Baroness Finlay of Llandaff (CB): My Lords, I, too, must declare an interest, having been on the sub-committee looking at khat, when we heard a very different story because, as the Minister has indeed set out, there are no medicinal uses for it. The evidence that the UK is becoming potentially a route and hub for distribution is particularly worrying, as is the effect within those communities on the home life and domestic instability that has occurred. I can understand why there is a push to put this legislation forward because there is a need to say that the drug is not safe and recreational in the ordinary sense, and that there are harms associated with it due to its psychoactive nature.

Baroness Smith of Basildon (Lab): My Lords, over a number of years, successive Governments have looked at banning khat, and the evidence for doing so is less robust that that for ketamine. That is clear from the evidence base in the Explanatory Memorandum and the Government's assessment of the options. We agree with the Home Secretary's analysis that the arguments are finely balanced—a point made by the noble Baroness, Lady Finlay—and consider that the benefits of a ban could outweigh the risks. However, we seek a number of assurances from the Government that are needed before that is clear.

We should look at the reasons for considering a ban and the risks of such a ban. The reasons for considering a ban are, first, the social and possible health harms associated with the drug. My understanding is that khat is not easily comparable with other drugs because it is consumed almost entirely within the diaspora of the Horn of Africa countries: namely, Somalia, Yemen, Ethiopia and Kenya. Overall just 0.2% of the UK population have used khat, but some 50% of Somali males are thought to be users, and up to 10% of them are daily users. This makes it very hard to separate the social harms of khat from wider social issues faced by the Somali community, and to a lesser extent the Yemeni and Ethiopian communities. That said, we have received clear representations from within the Somali community about the problems of khat. In her report, the Home Secretary cited the support of 32 groups representing the Somali community. The support for a ban from within the Somali community is clearly articulated in the report on banning khat, removing segregation and promoting integration, which looks at the community perspective and to which some 27 groups are signatories.

The range of social harms with which khat has been associated include low-level public disorder, and there are claims that khat is linked with some criminal behaviour. UK Somali women often cite excessive expenditure on khat for the diversion of household funds as a major cause of marital tension and family breakdowns. It can also be linked with idleness and benefit dependency, and seems to be a key factor in unemployment, low attainment and social exclusion. However, neither the ACMD nor the Home Office review has been able to isolate khat as the cause of those phenomena, because they all seem to be specific to specific cultures. For example, the phenomena are seen in the Somali communities that use khat but not in the Yemeni ones. Therefore, it appears that khat use, and possible dependency, is part of a cycle of behaviour that is extremely damaging, and which leads to a range of social problems and to social exclusion.

Khat has also been linked to health harms, including liver toxicity, as the Minister mentioned, tooth loss, as well as to health issues that relate to the manner in which it is consumed. More seriously, it has been linked to depression, paranoia, and even psychosis, and is cited as a key reason for higher than average acute mental health problems in the Somali community. However, as with all social harms, it is hard to isolate khat from wider factors that impact particularly on the Somali community, such as social deprivation. Therefore we are not able to say that khat is the direct cause of those problems, although it seems that it exacerbates them.

If we look at paragraph 4.3 on page 1 of the Explanatory Memorandum, we see that:

> "The ACMD advises that there is no robust evidence to show a direct casual link to adverse medical effects, other than a small number of reports of an association between khat use and significant liver toxicity. It also finds some of the adverse outcomes are *associated* with khat use i.e. a complex interaction of khat with other factors to produce the outcome, but that there is no evidence that it is directly caused by khat use. The ACMD further advises that, from the evidence on societal harms, it is often difficult to disentangle whether khat is the source of community problems or whether, to some extent, its prevalence and use is symptomatic of the problems for some individuals and groups within that community".

[Baroness Smith of Basildon]

To understand the difficulties, I turn to pages 9 and 10 of the impact assessment, under the heading, "Evidence Base", which states:

"Anecotal evidence reported from communities in several UK cities link khat consumption with a wide range of social harms. Research into these concerns has been undertaken but no robust evidence has been found which demonstrates a casual link between khat consumption and any of the harms indicated".

The Home Secretary makes clear in her Written Statement to Parliament, which is Appendix A of the impact assessment, that although the ACMD report,

"recommended that khat should not be controlled, the ACMD acknowledges that there is an absence of robust evidence in a number of areas and that there are broader factors for the Government to consider when making its decision. The decision to bring khat under control is finely balanced and takes into account the expert scientific advice and these broader concerns".—[*Official Report*, Commons, 3/7/13; col. 56WS.]

Therefore we accept that this is finely balanced and that the Home Secretary's decision takes other, broader factors into account than the medical or scientific.

We also have to examine the risks of banning khat. In assessing risks, we have to consider the risk of the UK becoming a hub for illegal exports to other EU countries and the US, which have already implemented bans—a point made by the noble Baroness, Lady Finlay. That phenomenon has been identified in Sweden and in the Netherlands, but is there any evidence that that is happening here in the UK? The khat ban was first announced in July last year, shortly after the Netherlands ban had come into force. Has any evidence emerged since it was first announced? Khat imports into the UK were falling until last year; has there been a change in pattern since the announcement?

When we look at the impact assessment, that risk is not included as a non-monetised benefit. Neither is any impact on law enforcement agencies considered, other than a reference under "Risks", on page 16, that enforcement costs may be high initially, as:

"Evidence from other countries which have controlled khat suggests that levels of demand may not reduce immediately after the ban comes into effect, if at all. This could mean that if offenders are caught, enforcement costs may be higher soon after the ban though they may fall afterwards".

I did not find that kind of figure in the impact assessment. It is also at odds with the expectations under the heading "Justice" on page 19 of the impact assessment:

"that the khat industry will 'self-regulate'",

and that legislation to ban khat would have,

"a minimal impact on the criminal justice system".

However, there is a significant risk that it could damage community relations. Notwithstanding the support for a ban, as quoted above, the Home Office report *Perceptions of the Social Harms Associated with Khat Use* makes it clear that khat use is both common and widely accepted within the Somali, Yemeni and Ethiopian communities, so to ban khat would be to criminalise an established and accepted social practice. The impact of that has to be fully understood and handled carefully. The Home Office report also signifies that for many khat use is a key cultural signifier and, often, a deliberate attempt to identify with the wider diaspora.

I turn to the equality assessment. Was this signed off by the Minister, or should it have been signed by a Minister? It does not appear to have been but he might be able to give further advice on that. If so, which Minister has signed it off? The escalation framework, referred to by the Minister, is very important and is laid out in the annex. Apparently, it was decided as part of the review of stop and search. Is the rest of that review also available? It is clear that without proper policing measures this could significantly damage community relations for the Somali and Yemeni communities. That will impact on the Prevent agenda, so it would be helpful to know from the noble Lord whether there were discussions with those responsible for that agenda on what their considerations were of how this could be managed. The point is that it is not clear cut.

We have four issues that we wish to raise with the Government, and which we consider would have to be done if they were to proceed with a ban. There must be regulations and some moves taken to ensure that it is effective and properly monitored. Consideration should also be given to the significant risks.

First, we seek a commitment from the Government to keep this matter under review. Specifically, we would need to see a review after 12 months that looked at the impact of reclassification, and the impact on organised crime and community relations. We would want that to include the monitoring framework outlined by the Home Affairs Select Committee in, I think, the second recommendation of its report. We understand that the Government are collecting some of that information in relation to drugs. However, that is not enough because khat is unique among drugs in that it is focused in the Somali and Yemeni communities. Some specific data will need to be collected on community relations and a separate review into khat should be published. The kinds of things we would be looking at in order to fully understand the implications of that decision are on-street stop and searches, and the numbers of arrests and out-of-court disposals.

Secondly, there are issues around policing. Because khat is highly prevalent in the Somali and Yemeni communities, the introduction of a ban on khat would allow any Somali or Yemeni male to be subject to stop and search. This causes enormous concern in those communities. It could have a detrimental effect on community relations and, in turn, undermine the Prevent agenda, as I have mentioned. This is a particular risk in the Somali community, where khat is a social drug and is linked to numerous businesses including cafes and community centres. The policing will need to be sensitive to that risk and we would want to see a specific policing strategy, agreed by the ACPO leads for drugs and the Prevent agenda. This plan would have to be in force before the ban itself is enforced. I understand the escalation agenda and I welcome it, but we need to have that policing plan in place before any ban is enforced.

I have two more points. One is on health and education. There has to be a programme of engagement and support for Somali communities to educate them about the dangers of drugs and alcohol. What we do not want to see in these communities is khat being

replaced with alternative drugs or alcohol, which leads to further problems. A World Health Organisation report referred to that issue as being a specific risk in the banning of khat; so it is an issue which has to be taken seriously.

5 pm

The fourth issue is what we would require to be in place if this ban were to go ahead. We want the Department for International Development to continue to work with the Kenyan Government to alleviate the effects of the khat ban on the Kenyan economy. I am sure the Minister is aware of the Home Affairs Select Committee report that raises serious concerns about the economic impact in Kenya.

I understand that this is a balanced decision that is being made. It is not clear cut, but I think in order to proceed we need assurances that the demands we are making have to be examined, including around implementation, to ensure that the risks do not outweigh any benefit.

Lord Ahmad of Wimbledon: My Lords, I thank both the noble Baronesses for their contributions. While brevity was the call of the day in the contribution by the noble Baroness, Lady Finlay, the point was made very well that whatever policy we pursue, we want to ensure that we have the desired effect. One of the deep concerns which emerged, and which is behind the Government's proposal, was the concern over London or the UK becoming a hub. That is not least because, when we are working alongside our European partners, some would perhaps argue that other countries across Europe, Holland being one of them, which have more liberal policies in these matters than we do have already implemented such bans.

I think the noble Baroness, Lady Smith, raised the issue of changes in the pattern. One of the latest figures that we have seen for trafficking evidence is that between January and March 2014, there were 17 seizures of khat. Eleven and a half tonnes of khat were seized while being taken from the UK to France, en route to other countries. While it is just a small window, there has been a change, and I share those statistics with the Committee.

The decision to control khat under the Misuse of Drugs Act 1971 and to adopt an escalation framework for policing khat possession offences was the outcome of a long and thorough consultation process. For the benefit of the Committee, this included research and inquiries on community perceptions and international evidence, which were led and published by the Government and then of course shared with the ACMD, and to the ACMD's own public evidence-gathering sessions and fact-finding visits about community concerns in England and Wales. I will come to some of the specific questions that the noble Baroness, Lady Smith, raised.

The Home Secretary has made clear that the Government's decision was finely balanced, as the noble Baroness, Lady Smith, also acknowledged. My right honourable friend the Home Secretary also made clear that we do not dispute the ACMD's scientific assessment of evidence on harms. The working protocol with the ACMD recognises the broader policy factors that the Government have had to consider alongside all available evidence on medical and social harms to inform drug control and classification decisions. The ACMD's advice helped us to understand the complexity of issues surrounding khat which, in some communities, required our most careful attention.

Beyond the control of khat, we have responded positively to ACMD's recommendations on health and community-based interventions that we need to support and that can be tailored to meet local needs. Indeed, that was one of the concerns the noble Baroness, Lady Smith, raised. Public Health England has updated its joint strategic needs assessment guidance for local public health commissioners to this effect. It will advise them with reference to the ACMD's recommendations and support providers to take appropriate action in centres of khat use, including preparations for a potential influx of khat users and their families once they find that the drug is no longer available.

The Alcohol and Drug Education and Prevention Information Service provides a tool kit for schools to meet local needs, which will include khat where necessary. The Government have also planned communications activity, including targeted community messaging in the lead-up to the control of khat and afterwards. Khat factsheets have been prepared for local organisations and front-line staff to communicate to users and their families the potential harms of khat, the implications of the law change and where to find locally available support. These factsheets will be made available in four key languages in addition to English: Arabic, Amharic, Somali and Swahili.

This co-ordinated response will support the delivery of our drug strategy aims in these communities to protect the public from drug harms, support dependent and vulnerable users into recovery, and support integration. The Government are fully committed to providing support to anyone who needs it to lead a drug-free life, and to promoting equality of chances among all our communities and citizens, regardless of background.

Law enforcement was another issue raised by the noble Baroness, Lady Smith. The law enforcement response has been developed taking into account the localised and international nature of the khat trade. Law enforcement activity will start at our borders, due to the trade's heavy reliance on airfreight and rapid transportation to the point of sale. It will then be for police forces to deal with any residual activity involving khat where there is a local issue. Our escalation policy and targeted messaging aim to reduce the risk of criminalising small groups of individuals by providing opportunities for local agencies to work with vulnerable users and their families in a sensitive and proportionate manner. Information about local support services will be more readily available.

Before I finish this section, the noble Baroness, Lady Smith, asked about the support being given to police and what plans are in place. There is national police guidance in the khat possession for personal use intervention framework, which was produced in January 2014. If she has not yet seen a copy of that, I will be

[Lord Ahmad of Wimbledon]
happy to provide it to her. She raised issues about the equality statement and Ministers' knowledge. Ministers were aware of the equality statement and were fully involved with it, but it was signed off by a senior civil servant.

On social harms enforcement, these harms are quite difficult to assess in certain respects—which I suppose applies to any drug, but it is particularly true of khat. We recognise that there is a need for close monitoring. In that regard, perhaps I may turn to some of the specific questions on this issue raised by the noble Baroness. On reviews, as recommended by the ACMD, we will continue to monitor the situation on khat, as we do with all other banned drugs. We recognise the need to review the outcomes of policies specific to khat in local communities, in addition to the collation of local and national data on prevalence, treatment and seizures, as we do with other drugs.

Nationally, we have re-introduced a question on khat use in the Crime Survey for England and Wales and will create a khat-specific offence recording code to monitor local law enforcement and criminal justice agencies' response to khat-related offences. The noble Baroness referred to the use of stop-and-search powers. As was announced by my right honourable friend the Home Secretary last summer, we will keep the use of stop-and-search powers, which are used too frequently in the Government's opinion, under constant review.

On the law enforcement response, I have already alluded to the national policing guidance. This has been developed specifically for khat and will ensure that the police response to possession offences is consistent, proportionate and—most importantly—sensitive to local issues and community relations, which was another concern expressed by the noble Baroness. Warnings issued by police will be recorded locally and penalty notices for disorder will be available nationally. It is our belief that the combination of our escalation policy and communications activity will help to reduce the risk of criminalising users by providing opportunities for local agencies to work together to signpost vulnerable users and their families to available support services.

On health and education—another concern raised by the noble Baroness—Public Health England will, first, share and promote effective partnership working among local agencies responding to khat-related concerns; secondly, highlight the need to tailor drug prevention initiatives where appropriate; and, thirdly, continue to use the Alcohol and Drug Education and Prevention Information Service toolkit for schools to meet local needs, which may include needs in relation to khat. In its letter to the Home Secretary, the UK Somali network stated:

> "As community leaders we have been in discussion with Local Authorities, Health Bodies and the Metropolitan Police Service to reduce any disruptions to society and with further guidance and support from all Government agencies, we will put in the necessary framework or safety net for the most vulnerable that require treatment and prevention at the local level".

We know that this is already happening effectively with local authorities at a local level.

The noble Baroness also asked about the wider, international concerns relating to specific countries, including Kenya in particular. We will of course communicate UK khat policy updates throughout all our international posts. With regards to Kenya, the Home Secretary has set out the Government's response to the Home Affairs Select Committee's report on khat, including the concern raised about the potential impact of a UK khat ban on the Meru region's khat industry. We of course appreciate the associated concerns that have been raised about livelihoods, and that is why the UK continues and will continue to deliver a number of projects in Meru county throughout the Kenya market access programme, which is intended to better enable low-income households to participate in a range of value-added markets. For example, this programme currently supports work on aquaculture, livestock and improving the productivity of agricultural communities in Kenya. The Government are also considering how best to improve the commercialisation of rangelands, including through supporting investment in the livestock value chain, tourism and leisure, as well as in other value-added markets. It is our belief that through these objectives and working together with the Kenyans we will achieve the objective of lifting some of the poorest Kenyans out of poverty and providing Kenya with an exit from aid.

I trust that I have answered most of the questions. It is notable that the noble Baroness rightly raised some specific issues about communities that are impacted by khat, the Somali community in particular. Perhaps I may share a quote from Mohamed Ibrahim, who is chair of the London Somali Youth Forum, in his letter to the Home Secretary in July 2013. He wrote:

> "I would like to inform the Government that Somali youths, community/mothers and professionals are fully behind such ban, because this about unlocking their potential as citizens, removing barriers to progress".

I assure noble Lords that we will continue to monitor the situation in the UK, which will help to develop the evidence base for future research into understanding the links between khat use and its associated harms, as the ACMD has recommended.

Baroness Smith of Basildon: I am grateful to the Minister, who has made every effort to address the points that I raised. He is right—this is a finely balanced decision. I am a bit disappointed with some of his answers. I know he made an effort to address them, but I raised specific points that were not out of the blue because I spoke to the noble Lord, Lord Taylor, and his office last week. There have also been discussions over the weekend between my colleagues in the other place and the Government. I would like to consider further the points that the noble Lord has made. The implementation of this measure is so important. When something is finely balanced the implementation has to be very sensitive, and he has not been able to satisfy me on my specific points about the review or about policing. I should like to consider whether a further debate on the Floor of the House is needed, but I am grateful for the noble Lord's efforts to address a number of the points I raised.

Motion agreed.

Misuse of Drugs Act 1971 (Amendment) (No. 2) Order 2013

Motion to Consider

5.13 pm

Moved by ***Lord Ahmad of Wimbledon***

That the Grand Committee do consider the Misuse of Drugs Act 1971 (Amendment) (No. 2) Order 2013.

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

Motion agreed.

Disabled People: Independent Living Fund

Question for Short Debate

5.14 pm

Asked by ***Baroness Campbell of Surbiton***

To ask Her Majesty's Government what arrangements they are putting in place to ensure that disabled people currently in receipt of money from the Independent Living Fund will not be left in hardship when the Fund is wound up next year and the responsibility for Fund recipients is handed to local authorities.

Baroness Campbell of Surbiton (CB): My Lords, independent living lies at the heart of disabled peoples' participation in their community. My interest in this concept is both personal and professional. Independent living support has enabled me to gain an education and enjoy a fulfilling career. Without it, I would be incapable of doing anything beyond the walls of my home. I am not alone; there are thousands just like me, who have been liberated by this support.

On 6 March, the Government issued a statement announcing, for the second time, their intention to close the Independent Living Fund, the ILF. Only the date of closure has changed: it has been put back to June 2015. Their first attempt at closure was challenged by a small group of disabled people who took the case to the Court of Appeal in 2013. The court ruled in their favour, announcing that the Government's decision was unlawful under the public sector equality duty. The courts recognised that ILF users will be "significantly disadvantaged" if they have to rely solely on existing local authority provision, and that something more is expected of the Government to fulfil their obligations under the Equality Act and the UN Convention on the Rights of Persons with Disabilities.

One of the judges stated that if the forthcoming legislation on social care, or the code of guidance on transferring responsibility for ILF users to local authorities,

"does not arrive in time or turns out to be too anaemic in content to enable the Convention principles to be brought to bear in individual cases",

then there would need to be reconsideration as to whether the public sector equality duty had been fulfilled. He also warned that,

"the level of Treasury funding for … this class of ILF users in transition back to"—

local authority provision—

"in particular is so austere as to leave no option but to reverse progress already achieved in independent living".

I look forward to hearing from the Minister how the Government have addressed the concerns raised by the courts. Their equality impact assessment offers precious little reassurance on either count.

The Government's decision to close the fund was not a surprise. Like so many government-funded initiatives to support disabled people's independence, it fell prey to Treasury cuts and a shaky case for non-duplication and rationalisation. While the ILF budget has risen to the region of £290 million, this money helps over 18,000 severely disabled people, many of whom were previously dependent on expensive residential care or traditional day services. One of their biggest fears is of being forced to return to such provision when ILF funding ceases.

Times have changed. We now recognise that all Britain's citizens, including those with the most severe disabilities, should enjoy the same life chances, freedoms, and responsibility to contribute, as everyone else. The days of mainstream institutionalised care should be behind us. As the deputy president of the Supreme Court said last week, when ruling that three disabled people had been deprived of their liberty in comfortable care facilities:

"A gilded cage is still a cage".

Today, six out of 10 ILF users have some form of learning disability, and people—

The Deputy Chairman of Committees (Lord Bichard) (CB): My Lords, there is a Division in the House. The Committee will adjourn for 10 minutes.

5.19 pm

Sitting suspended for a Division in the House.

5.29 pm

Baroness Campbell of Surbiton: To continue, today six out of 10 ILF users have some form of learning disability and people with significant learning disabilities are the highest single group, making up 33% of all users. About one-third of these use their ILF grant to enable them to live in supported accommodation. They and their families have paid tribute to how it has changed their lives, improved their health, expanded their horizons and, for some, opened up training and job opportunities. It became apparent when the fund was closed to new applicants in 2010 that this group would be particularly disadvantaged. The ILF told the Dilnot commission that:

"Many of these people have previously lived in residential care or long stay hospitals ... Local Authority representatives have told us that supported living placements for this group are becoming harder to finance since ILF stopped accepting applications".

The Government's consultation responses and impact assessment make it quite clear that ILF users will face a reduction in funding. This was confirmed by the response to the consultation from the Association of Directors of Adult Social Services and the Local Government Association:

[Baroness Campbell of Surbiton]

"As ILF recipients transfer into the LA system in 2015, and are subsequently reviewed against",

the local authority assessment criteria,

"the value of the personal budget calculated through the Resource Allocation System … will generally be at a lower level than the initial ILF/LA budget".

Disabled people and their families are acutely aware of this prediction. They see their autonomy, independence and well-being slipping away. It is not surprising that they want to save the ILF because they mistrust local authorities' ability to deliver independent living outcomes—outcomes which enable them to live in the community and not simply survive, the latter now being described by many as "clean and feed" provision.

Scope's recent research evidence also indicates that local authority social care eligibility criteria and assessment based on personal care needs cannot hope to replicate ILF outcomes. It is true that equivalent funding is being transferred to local authorities, on a formula based on ILF estimates of what it would have paid recipients in each authority. However, the Government and local authorities are adamantly opposed to protecting this money via ring-fencing, so there is no guarantee that the funds will be used to support those transferring from the ILF. I can see the temptation to plunder the fund now: for mending potholes, funding crisis care or simply balancing the books. Let us not forget that the sum involved is a tiny fraction of further cuts planned in local government funding.

The Government giveth and the Government taketh away. For better or worse, the Government have decided to close the ILF. My concern now is that without proper protection and monitoring, the new process and procedures for delivery will fail to meet the 21st-century rights of disabled people to independent living, as articulated in Articles 19, 24 and 27 of the UN Convention on the Rights of Persons with Disabilities. It is clear that the courts share this concern.

Policy responsibility for future support for ILF users now passes to the Health Secretary and implementation falls within the framework set out in the Care Bill. I am a little bewildered that the Health and Social Care Minister is not responding to this debate: surely we are here to debate the future of independent living support, not the past. Along with my fellow Peers, I have worked closely with the Government to ensure that disabled people's rights and responsibilities are embedded in the Care Bill: Inclusion London, Disability Rights UK and Scope have all produced constructive research evidence and practical ideas, shaping the continuity of care provisions, assessment procedures and much more. I want to see this model of collaboration throughout the ILF transition. In addition, regulations and detailed statutory guidance on the assessment of needs being prepared under the Bill must specifically address the needs of those transferring from the fund. Can the Minister confirm whether this is happening?

We have only 15 months to get the new structure for delivering independent living support fit for purpose. I am therefore asking the DWP, DCLG and the Department of Health Ministers for two immediate actions. The first is to initiate a reference group to oversee and monitor the effects of the ILF transition for two years. This group should work along the same lines as the current continuity of care group which involves disabled people, including myself, Government officials and local authority practitioners. Secondly, the Ministers for Social Care and Local Government should develop statutory regulation and guidance to ensure that the current principles and resources secured for independent living purposes continue after the transfer.

Without that twofold plan the Government are in jeopardy of undoing 30 years of independent living development, which has brought the most severely disabled people out from the shadows of dependency services. Let us ensure that they do not return to the back room, watching TV, or end up in 21st-century "gilded cages". I look forward to hearing the Minister's response, and very much look forward to this debate.

5.35 pm

Lord Cormack (Con): My Lords, I can say "Amen" to that. We are all greatly in the debt of the noble Baroness, Lady Campbell, not only for the way in which she has introduced this debate today but for the shining example that she gives us all, day in, day out, when she is in this building. I first became conscious of her presence on a Sunday afternoon in August. I was listening to "Desert Island Discs", and had to pull into a car park because I did not want to be early for my lunch until I had heard everything that the noble Baroness had said and had chosen. That was the most inspiring episode of that programme I have ever heard. We have here someone who has overcome enormous disabilities to be a leader, and is a Member who plays a very full part in the deliberations of your Lordships' House. We should listen with respect and care to what she has said.

It seems that the die is cast as far as the Government's decision is concerned. Personally, I regret that. We now have to ensure that the things that could happen do not happen. We must not give the disabled in our midst a postcode lottery, and there has to be a guarantee of help which is at least the equivalent of that to which they have become accustomed. However, inevitably, there is a feeling of real concern and doubt in the disabled community, and I hope that when my noble friend comes to sum up this debate, he will be able to put all our minds at rest. There is a duty upon whoever is in government to help those who are least able to help themselves without the sort of assistance that they have had over the past 30 years. Coming in from the cold, out of the shadows—one can use various expressions. However, the fact is that this fund has enabled people to fulfil themselves in a way that was not possible before. What we all need, as we struggle with life, is independence, security and stability.

For many of us, it is not too difficult to have those three things, but for those who labour under great disability, it is. I cannot begin to say that I understand fully or even partially the sort of obstacles that the noble Baroness has so valiantly and inspiringly overcome. However, we all have problems from time to time that make us just a little aware of those obstacles. When I broke my arm once, and for six weeks could not use

my right hand at all, I became a little conscious of them. Last year, as some of your Lordships will know, I was hobbling around with a stick because I had a particularly bad back. I thought that I faced spinal surgery—and thank God I did not. However, during that period I became acutely conscious of what some of my colleagues in this House have overcome. They are an inspiring example to us all.

I cannot understand the logic of winding up the fund. I find it difficult. But it is incumbent upon the Government to answer with real conviction, dedication and determination the points put by the noble Baroness, Lady Campbell, in her concluding remarks. Knowing my noble friend, in this place and in another one, I know that he is a man of real compassion and I hope he will be able to set our minds at rest.

It really would be appalling if in June 2015, when we are all celebrating the birth of the rule of law in the meadows of Runnymede in June 1215, we foreclosed on some of those in our society whose need is particularly great. If anyone deserves practical compassion, it is the noble Baroness and those like her. I thank her for all she has done. I thank her for the inspiration she gave us this afternoon, and I look forward in hope and expectation to the Minister being able to put our minds at rest.

5.40 pm

Baroness Hollins (CB): My Lords, I congratulate my noble friend on introducing this debate and on her advocacy for the right of disabled people to live independently. My own interest derives from my work as a psychiatrist with people with learning disabilities for more than 30 years, and as the mother of two disabled adults.

The Independent Living Fund provides important support for more than 18,000 disabled people. I know that many people with a learning disability, particularly those with profound and multiple learning disabilities, have benefited from the fund. The Government's view that such a discretionary fund should be subsumed into the mainstream social care budget of the local authority might perhaps be an agreeable one if social care were not being so horribly squeezed already and if people with disabilities were not already being adversely affected by cuts to welfare benefits.

My noble friend referred to the serious delays to progress in the post-Winterbourne View programme that aims to move people who are in institutional or supposedly specialist hospital care back into their home communities. This has been held up. Local authorities seem to have no incentive: it is cheaper for cash-strapped local authorities to admit people to NHS or private specialist hospitals than to provide skilled suitable support for them at home.

In the past three years, an estimated £2.68 billion has been cut from adult social care budgets—a figure cited by the Association of Adult Directors of Social Services. Of course, the result has been a tightening of the eligibility criteria, meaning that many people have already lost much-needed support. The Care Bill, a very welcome piece of legislation, sets a national eligibility threshold that is intended to bring consistency across the country. However, the Government have said that they will set the threshold of care at "substantial", meaning that many people—I am thinking here of people with learning disabilities—will lose out and find their independence threatened. Such a restriction will undoubtedly leave local authorities struggling to deliver on the new well-being principle set out in the Bill.

Organisations such as Mencap, which assisted with research for my speech today, and others within the Care and Support Alliance have highlighted the impact on those with mild and moderate needs losing care as the threshold rises. A few hours of care a week for someone with a mild learning disability might be the difference between living independently and being alone and lonely at home. It might mean being supported to get out into the community, being involved in leisure activities, being helped to organise money and pay bills, and being less vulnerable to exploitation. Last week I watched a play performed by a theatre company of actors with learning disabilities. The play was called *Living Without Fear.* The actors illustrated graphically the lives of people with inadequate support living at home, and the kind of disability hate crime and exploitation that some people with inadequate support will face.

Many people rely on relatively cheap and low levels of care. The loss of such care risks isolating them and denying them independence—something, of course, that is central to this debate. The Independent Living Fund supports a number of people with low or moderate needs. It is members of this group who might well be hit twice. The focus of the fund on supporting independence could be lost by being subsumed into a general adult social care budget. One worry I have is that the welcome move toward supported living for people with learning disabilities will be slowed down now with a retreat to a residential warehousing model of care, which we have been working so hard over the past 30 years to turn around.

Like the noble Baroness, Lady Campbell, I look forward to the Minister's response on how the transition will be handled, particularly in light of the increasing financial constraints faced by local authorities. I am interested in the Minister's comments on how the effects of the abolition of the fund will be evaluated and reported.

5.46 pm

Baroness Wilkins (Lab): My Lords, the Government have been given the clearest of warnings that their plans to close the Independent Living Fund and transfer its responsibilities to local authorities could relegate thousands of disabled people to residential care—either that or they would be living such reduced lives that they would be deprived of their current ability to live independently, have a family life, be educated, be employed, do voluntary work and contribute to their communities. Is the coalition Government honestly willing to accept this? Do they understand the wholly justified fear that this decision has generated?

I congratulate the noble Baroness, Lady Campbell, on securing this debate, and I look forward to the Minister's response to her positive suggestions on ways in which this miserable situation can be alleviated.

[Baroness Wilkins]
It is just not possible for the Government to deny that we have a crisis in social care. Only this past week, the Nuffield Trust reported that a quarter of a million older people have lost their basic social care over the past four years due to cuts in council budgets. The report's authors warned that the NHS and Government are now "flying blind" in planning services for vulnerable people because there is no way of assessing the true impact that social care cuts are having on their lives.

Over the past three years, £2.68 billion has been cut from adult social care budgets despite the increasing numbers of working-age disabled people needing care. Research contained in the report *The Other Care Crisis* last year found that this is having a significant impact on the ability of disabled people to live independently; 40% of respondents said that the social care services do not meet their basic needs, such as washing, dressing or getting out of the house. How can the Government support a policy which now probably condemns another 20,000 to join that fate?

This is the situation we face, yet somehow the Minister for Disabled People, in his Statement on 6 March, could say:

"The key features that have contributed to the Independent Living Fund's success, in particular, the choice and control it has given disabled people over how their care and support is managed, are now provided, or are very soon to be provided, within the mainstream system".—[*Official Report*, Commons, 6/3/14; col. 143WS.]

I take it that the Minister was basing his argument on the Care Bill, with its very welcome introduction of the well-being principle in Clause 1. But this principle does not include key concepts of independent living, such as choice, inclusion and equal participation.

How soon will it be that a local authority argues that a former ILF user's well-being is being met in residential care, despite it being totally against the individual's wishes or choice? All attempts by the Labour Opposition in the Commons to include independent living in the well-being principle were voted down by the Government. Moreover, as we constantly argued during its passage, the Care Bill has little chance of achieving its aims without sufficient finance. First it has to overcome the current £1.2 billion shortfall in funding social care for disabled people under 65, let alone care for older people. I feel sure that the Minister will cite the £3.8 billion joint health and social care funding—the so-called "better care funding"—as the solution. Welcome as this is, it is not new funding. NHS England and the Local Government Association have pointed out:

"The £3.8bn pool brings together NHS and Local Government resources that are already committed to existing core activity".

The fundamental question that lies behind this debate is whether social care is capable of delivering a right to independent living. Disabled people have been striving to establish this for the past 30 years. Far from abolishing the ILF, we need a system which builds on the way it has enabled thousands to live ordinary lives. We need a system based on universal principles, which funds the additional costs that disabled people have—of all ages and across the whole range of impairments and long-term health conditions. It needs to be a nationally consistent system, with no element of postcode lottery.

The noble Baroness, Lady Campbell, has proposed to the Government a way to alleviate the misery of the policy they are adopting. I hope that the Minister will grasp it and at the very, very least persuade his fellow Ministers to ring-fence the ILF funds when they are transferred.

5.51 pm

Lord Low of Dalston (CB): My Lords, I am grateful to the noble Baroness, Lady Campbell, for initiating this debate on replacement arrangements for the Independent Living Fund. Closure of the ILF potentially represents a crisis in funding to support the independent living of a significant group of some of the most severely disabled people in the United Kingdom.

The ILF is a national scheme providing financial support for almost 20,000 disabled people to live independently in the community rather than in residential care. It was originally set up in 1988 as a temporary measure to mitigate the impact of implementing new community care legislation and a review of social security benefits for disabled people which was being undertaken by the Government of that time.

However, the desire of disabled people to live more independently was vastly underestimated. Within its first year, the fund attracted 900 applications a month, later rising to more than 2,000. The fund proved very popular. It worked very well. It met a real need and, as a result, has survived to this day, supporting nearly 20,000 disabled people, many of whom have some of the most severe and complex needs.

In June 2010, the Government closed the fund to new applicants. In December 2012, they proposed to abolish it altogether. In November 2013, the Court of Appeal ruled against the Government's decision to abolish the fund. However, on 6 March this year, as we have heard, the Minister for Disabled People announced his intention to close the fund anyway, on 30 June 2015.

The Government's thinking is that the ILF should close and funding will be transferred to local authorities so that current claimants can be supported through the mainstream adult social care system. I recognise that the ILF is something of an anomaly, falling as it does on the DWP budget and sitting outside the mainstream system of social care funding. However, sometimes it is appropriate that the imperatives of bureaucratic tidiness should give way to the pragmatism of what works.

I acknowledge that the Government have said funding from the ILF will be transferred to local authorities and the devolved Administrations. However, this must be judged against the state of social care funding. Cuts to local authority budgets of more than 20% since 2010 have had a devastating impact on social care provision. The amount spent by councils on adult social care has fallen by £2.8 billion, or 20% between 2011 and 2014, and the Audit Commission's *Tough Times 2013* report, published at the end of last year, found that while reductions in adult care accounted for 14% of council cuts between 2010-11 and 2011-12, they will account for 52% in 2013-14.

Consequent pressures on local authority budgets have meant that thresholds for care have risen dramatically, meaning that fewer disabled people qualify for social care. Since 2008, 97,000 fewer disabled people aged 18 to 64 have received social care, and even those still eligible for care experience the rationing of support. In these circumstances, the Government's assertion that the social care system will simply pick up where the ILF left off is unrealistic in the extreme. This is especially the case when it is realised that the £320 million that the ILF currently costs will not be ring-fenced when it is transferred to local authorities.

As the Government have stated their intention to set the new national eligibility threshold at a level equivalent to "substantial", the more than 3,000 ILF claimants in group 1, a significant proportion of whom have low or moderate needs, will likely not receive any support to live independently once the fund closes. Without this support, ILF claimants will find it harder to live independently and risk being forced to live in residential care, breaching Article 19 of the UN Convention on the Rights of Persons with Disabilities, which sets out the equal right of all disabled people to choose to live in the community and government's duty to take effective and appropriate measures to facilitate this right.

Like everybody else, I want to ask the Minister what replacement arrangements for the fund it is proposed will be put in place. With the closure of the ILF, I want also to ask whether the Government will commit to developing a strategy for local and central government to support disabled people to live as independently as possible. As part of such a strategy, will they make independent living a key outcome for delivering social care for disabled people?

The ILF system, however flawed, exists in recognition of the fact that people with high support needs are at particularly high risk of social exclusion. They face particular barriers to living independently in the community and their needs in this regard are not adequately addressed by mainstream provision. By taking away the support provided by the Independent Living Fund, the Government, whether intentionally or not, are sending a message that independent living for disabled people is not a priority for either local or national government. That is at the heart of the concerns that disabled people who receive support through the ILF are expressing.

5.58 pm

Lord Kirkwood of Kirkhope (LD): My Lords, it is a pleasure to follow the noble Lord, Lord Low of Dalston. I entirely agree with his concluding point that the needs of people who have multiple impediments are not being properly taken account of. I join others in congratulating the noble Baroness, Lady Campbell of Surbiton, on introducing this debate. She is being entirely realistic in the demands that she makes, and I support both of them. I hope that the Committee will not allow the Minister to duck both the propositions that she put: first, her idea of a reference group to monitor the two-year period that is just about to unfold; and secondly, the possibility of regulations and guidance that would continue thereafter. These are both entirely appropriate and I agree with her desire to bring them about.

Like some other colleagues, I am a refugee from the days when the 1988 regulations were put in place by that great man, Lord Newton, and Nick Scott. Those were the days of an enlightened Conservative Administration—some of us remember that. There was a real problem in 1988, and Tony Newton cut through some of the difficulties of moving the supplementary benefit into the new social security system and was enlightened enough to set this thing up.

We would be moving in entirely the wrong direction if the Independent Living Fund was closed. One of the books I received for Christmas—I am still reading it because it is very, very thick—is Andrew Solomon's *Far from the Tree: Parents, Children and the Search for Identity*. It is inspiring and I recommend it to the Minister in particular because it might occupy his time and prevent him from getting involved in anything more nefarious in the department. It is an inspirational book because it shows what can be done with proper support. It also shows what can be done regarding employment if there is adequate support.

The simple point I want to make is that if you look at the work being done by the noble Lord, Lord O'Donnell, on the question of well-being and the inadequacies of using GDP and simple monetary ways of measuring some of these issues faced by severely impaired individuals, we are missing an opportunity. Some of the case histories that Andrew Solomon considers in his book represent positive contributions to the families. In those cases, not only is well-being demonstrably and undeniably increased but they create a business case for preventive spending for the long term. If people get into work, they do not need nearly as much financial support. With assistance, they can trade their way out of difficulty.

Looking forward, the idea is not easy and is still novel. We should be testing whether systems such as the Independent Living Fund can be reconfigured in a way that considers spending as preventive. The reference group that we are thinking about setting up here—I hope that the Minister can consent to that—could additionally be tasked with looking at individual examples in which severe impairments are faced by family members and at how they can be turned around into success stories, and in which the well-being of everyone involved can be increased. That is a very interesting aspect of public policy that we are missing at the moment, and from which we are stepping away by closing the Independent Living Fund. We are doing the wrong thing. I would personally agree to the setting up of a reference group such as that suggested by the noble Baroness, with guidance to examine in a more informed way the issues and possibilities for preventive spending.

Like my noble friend Lord Cormack, I am already a signed-up member of the fan club of the noble Baroness, Lady Campbell of Surbiton. I will therefore follow her lead and support her in every way that I can in trying to establish the reference group that she is asking for.

6.02 pm

Baroness Grey-Thompson (CB): My Lords, I thank my noble friend Lady Campbell of Surbiton for tabling this debate.

In my time in your Lordships' House, I have had the pleasure of participating in, among others, the passage of the Welfare Reform Act and the legal aid Act, and the Care Bill. Through the legislation that has been passed we will see some of the biggest changes to the lives of disabled people in many, many years. While there have been varying amounts of media coverage over the welfare and legal changes, the effect of disbanding the Independent Living Fund has happened rather under the radar—perhaps because the role and funding available has been gradually eroded over time.

Inclusion London has argued that the ILF provided both value for money and value for disabled people. The ILF has only about 2% overhead costs, compared to 16% on average, for local authorities. The £350 million the ILF costs in government funding each year supports around 20,000 disabled people. This equates to, on average, £17,500 per person, equivalent to approximately £337 per week, or £48 per day. This compares—I was going to say "very well"—extraordinarily well to the notorious Winterbourne View private hospital, where the average cost was £3,500 a week.

The user base of ILF is mostly young disabled people; only a small percentage, around 6.4%, is over 65 years old. The ILF has had consistently high user outcome satisfaction, ranging from 94% in 2009-10 to 97% in 2012-13. Perhaps that was because it was centred on the person. I, like many, was extremely disappointed that the journey of the ILF appears to have been so tortuous recently and that disabled people, having been through the High Court case, were thrown a lifeline only to have it removed again. That was very ably explained by my noble friend Lord Low.

6.04 pm

Sitting suspended for a Division in the House.

6.14 pm

Baroness Grey-Thompson: My Lords, it is important to remember that the Independent Living Fund was designed to give disabled people the same rights as anyone else: to work, to socialise, to have a family, to participate in society and—I know it sounds a bit dramatic—just to live. That was brought home to me when a number of people got in touch with me because of this debate. Fran said that it enabled her,

"to live, not just exist".

Right now, I feel very lucky that, at least for the time being, I do not have care or support needs.

We are debating this issue at a time when the media coverage surrounding disabled people is inherently negative. You only have to scan the coverage to see that they—or rather, "we"—are being portrayed as scroungers and skivers who are a drain on society. The size of the welfare budget is endlessly debated, but what it widely encompasses is usually not. Scope's report, which was launched this morning, highlighted how little attitudes have changed in many areas over the past 20 years.

My real worry is that it will become "too expensive" for disabled people to live independent lives. If the funding is not ring-fenced, a disabled person's independence is balanced against a contribution to, say, upgrading street lighting. There is a real danger that it becomes a decision about the benevolence that we choose to bestow on disabled people rather than something that should be clearly defined.

I mentioned that a number of people got in touch with me, and this is a snapshot of what I was told. Sue told me that they would move from being able to fit care plans to people's needs to having to plan around care visits. Jackie said that once the ILF goes, so does the safety net around disabled people. Rachel said that disabled people are frightened for their future, and that they may be made to live in care homes. Fran, who I quoted earlier, gave a very balanced response:

"By employing and managing my own support, I create full time permanent jobs for personal assistants on a living wage at zero profit (I manage, including paying Tax and NI and recruit my staff for free) rather than carers on zero hour contracts on min wage with private companies profiting. Also it has been strongly evidenced that this central fund costs less than equivalent social services support per hour, due to low central administration and overhead costs, so care packages will need to be cut to create any saving. I am deeply scared this is putting thousands of Disabled people back to the pre-1980s era—unseen, institutionalised or trapped at home with inadequate support".

I believe that the time to save the ILF in this format has passed. However, I like the idea put forward by the noble Lord, Lord Kirkwood, that we need to reconfigure what we are doing. It is essential that what happens from here, and the protection of the budget, get the urgent consideration they require.

6.17 pm

Lord McAvoy (Lab): My Lords, I add my congratulations and thanks to those of colleagues who thanked the noble Baroness, Lady Campbell of Surbiton, for her integrity in bringing us here and for the quality of her presentation. The quality of presentations from other colleagues has also been first class.

The closure of the Independent Living Fund is a truly reprehensible decision, which is already causing recipients of the fund immeasurable hardship. The fund has served disabled people well. For those in receipt of the fund there is now a continual anxiety and fear about what comes next.

Like other colleagues, I press the Government to say what arrangements they are making to communicate with recipients of the fund and with local authorities. Responsibility will be devolved to local authorities from June 2015, but there remains no comprehensive strategy for implementation. Is it really the case that local authorities have no information on how the fund is to be devolved, divided, or maintained? What discussions are the Government having with local authorities?

Even more importantly, what is being done to inform recipients of the changes being made and to guide them through them? The closure of the ILF is already

adversely impacting upon recipients lives; many feel ignored and marginalised. Worryingly, the Government's equalities analysis, which the courts forced them to carry out, is full of imprecision. The Government seem unsure of the actual effects their policy will have. Some £262 million will be available to local authorities and devolved Administrations in place of the ILF in 2015-16, but what will happen after that date? The money being given to local authorities, as I think every Member of the Committee has mentioned, is not ring-fenced. Local authorities' social care budgets were cut by £893 million in 2012-13 and will be cut by a further 28% in 2013-14. It would be unsurprising if cash-strapped local authorities used this money to mitigate the effect of these cuts. What protections are the Government putting in place to ensure that this money is used appropriately? Why is the money not being ring-fenced?

It is clear that local authorities will have to apply their own assessment and eligibility criteria unless the Government build in some form of protection on transfer. Why have the Government not done this and what assessment has been made of this likely postcode lottery? That concern was also raised by the noble Lord, Lord Cormack.

It has been suggested that existing social care support assessments provide a means for determining support. However, in submissions to the Government's consultation, several local authorities reported that group 1 users may not meet social care criteria. The equalities assessment noted:

"For those Group 1 users not in receipt of any support from their local authority, the loss of ILF funding will most likely have a significant effect".

This represents 40% of group 1 users. There is a clear identification of risk to these people. What is being done to address this?

There is a disturbing lack of information on what is going to happen after June 2015. It is essential that recipients and local authorities have more information and are kept informed. What guarantees are the Government planning to ensure that former ILF funds are spent correctly? What protections will there be for group 1 recipients who are not in receipt of local authority support? These issues are already causing immense distress to disabled people and, if they go unaddressed, will cause serious hardship. Like the noble Lord, Lord Kirkwood of Kirkhope, I fully support the call of the noble Baroness, Lady Campbell, for a reference group. If there is no one there to fight the corner of people who are less able than the majority around them, they will in my opinion inevitably suffer. I call on the Government to respond to the noble Baroness's call for a reference group.

6.22 pm

Lord Bates (Con): My Lords, first, like all noble Lords in this debate, I pay tribute to the noble Baroness, Lady Campbell of Surbiton. My noble friend Lord Cormack was absolutely right in his tribute to her as a shining example in this place, and he gave me the injunction to listen to her with care and respect. That is absolutely what we will do in the way in which we are responding to the debate, and in seeking to provide the assurances that are being sought.

We have heard about the valuable role that the Independent Living Fund has played and continues to play in enabling severely disabled people to live independently. The noble Baroness, Lady Campbell, talked from her personal experience, and the noble Baroness, Lady Grey-Thompson, referred to the feedback that she had received from people who had written to her. The reality is that the Independent Living Fund had been a significant success. The noble Lord, Lord Low, referred to the popularity of the fund when it was instituted in 1988. Over the past 26 years, the number of people whom it has helped has gone up from 300 to 20,000 at its peak, and now down to around 18,000. These changes mean that the features that have contributed to the ILF's success are now, or very soon will be, available within the mainstream system across the UK. It is also the case that the ILF has always benefitted from the relatively small proportion of the severely disabled people who use the mainstream adult social care system, numbering about 1.3 million. Indeed, that broad care for disability is something that the noble Lord, Lord Kirkwood, referred to as coming from an enlightened Administration in the shape of the much missed Lord Newton. I served in that department as a PPS—although, I have to say in these times, not in a nefarious way at all—in supporting Nicholas Scott as he was taking forward that excellent piece of legislation, the Disability Discrimination Act 1995, which was really a sea change in the way that disabled people were treated and respected in our society.

On 6 March the Government announced the closure of the ILF on 30 June 2015. Funding will transfer to the English local authorities and the devolved Administrations. Local authorities in England will take direct responsibility for meeting the eligible care and support needs of ILF users. The devolved Administrations can decide how they wish to support ILF users in Scotland, Wales and Northern Ireland.

Significant points have been raised and we want to look at them very carefully. In relation to the reference group, which the noble Baroness, Lady Campbell, referred to, the ILF is committed to working in partnership with local authorities to ensure a smooth transition for users. The transitional arrangements now being implemented were developed from an extensive engagement between the ILF and a wide range of stakeholders, including local authorities across the UK, charities and other organisations representing disabled people, and ILF users themselves, 2,000 of whom responded to the consultation. Therefore, we feel that the consultation has been carried out and we do not think that such a group is necessary at this time.

The subject of visits was raised by the noble Lord, Lord McAvoy. Before June 2015 each user will be visited by the ILF, accompanied wherever possible by a local authority social care worker. These visits are designed to review the individual's current support package to ensure a joint understanding of the outcomes being secured and to address concerns about transition. Once the programme of visits is complete, the ILF will contact local authorities to ensure that they have all the necessary information about every individual user in their area.

[Lord Bates]

A number of noble Lords, particularly the noble Baroness, Lady Wilkins, mentioned the court case. Because of that uncertainty, a programme of visits to each and every one of the 18,000 people who are going to be affected had to be halted for a time as the closure of the fund was quashed. That has now restarted. There is no doubt that the level of anxiety understandably felt by those people who do not have a support plan begins to reduce once a plan is in place. We believe that that trend will continue as we move forward.

In terms of the essential nature of how we interact with the local authorities, a code of practice is now in place between the local authorities and the ILF. It has been drawn up with the Local Government Association. One of the reasons why—in fact, probably the reason why—we are now contemplating removing, in the words of the noble Lord, Lord Low, this anomaly and trying to bring it into the mainstream is that the quality of care provided at a local level by local authorities, on all the evidence I have seen, has risen dramatically over the past 25 years, to a point where that can be now considered. I will come on to the central part of that, which is the Care Bill. But there is that code of practice, which sets out the criteria for those visits to be undertaken with support and, crucially, that it is the duty of the local authority to ensure that the support plan is in consultation with a current member of the Independent Living Fund. If they are not satisfied with that, then it is also the duty of the local authority to signpost them in the direction of where they can receive advocacy and support in order to address their concerns and make sure that they actually get the help that they need, delivered in a seamless way.

I acknowledge the depth of concern shared by many users about how this decision could affect them. Some are concerned that they will not qualify for local authority support or that reductions to their care packages will mean that they cannot secure the independent living outcomes that they now achieve. This was a point raised by several noble Lords. It is right to address some of these issues in more detail. Local authorities already have a statutory duty to fund eligible care needs. The Care Bill will introduce a new national minimum-eligibility threshold for England in order to receive support from the Independent Living Fund. The two are very much part of the package.

The majority of current users, around 15,200, must have local authority funding of at least £340 a week. It is reasonable to assume that this group have support needs that mean that they will qualify for support from their local authority. In fact, that point, which my noble friend Lord Cormack raised, about having the minimum guarantee, I think is contained in that minimum eligibility and also in the code of practice. It is also right that the Government consider the position of all disabled people. The noble Lord, Lord Low, referred to the point about the slightly anomalous position about disabled people deciding about the Independent Living Fund—rather, the position of all disabled people when deciding how best to distribute the available resources—but does not believe that continuing with the current two-tier system is the right approach. It is becoming increasingly difficult to justify the present arrangements.

On the position for those who applied to the ILF before 1993, the noble Lord, Lord McAvoy, referred to group 1 and group 2 cohorts who are treated slightly differently. The position of those in group 1, ILF before 1993, some 2,800, is less straightforward. Some of this group may well have needs that fall below the new minimum threshold and will not therefore qualify for local authority support. Most of them, however, do have some local authority support, with almost 27% getting more than £600 a week. This suggests that many will be eligible for local authority support once the ILF closes. The noble Baroness, Lady Campbell, and others mentioned the UN Convention on the Rights of Persons with Disabilities. We do believe that it is compliant with this and are taking great care and careful note of this. The noble Lady also questioned why a spokesman for the Department for Work and Pensions was responding to the debate rather than the Minister for Health and Social Services. Of course, for historical reasons, the Minister for Disabled People—we talked about the late Sir Nicholas Scott—has always resided within the Department for Work and Pensions. He has, however, a collective role in co-ordinating all responses across Government for and in the interests of disabled people.

Legislation coming into force from April 2015 aims at promoting greater independence and will increase choice and control for disabled people. The Care Bill represents the most significant reform of social care in England in more than 60 years. Local authorities will be required to take individual well-being into account when making decisions about care and support, including the outcomes we want to achieve. The Bill will give users of the social-care system the right to a personal budget, which so many members stress as being critical and instrumental in giving a sense of independence and dignity to disabled people. Broadly similar legislation has come into force in Scotland, and will come into force in Wales in 2015.

I want to respond to the comments made by the noble Baronesses, Lady Hollins and Lady Wilkins, and others about funding. Social care expenditure has not fallen by 20%—£2.7 billion—since 2010-11; £2.7 billion represents the savings that councils have had to make to meet demand. Spending has been roughly flat in cash terms over the period, and the latest survey shows that councils are expecting a small increase in expenditure over the next year.

The noble Baroness, Lady Wilkins, asked about statutory guidance, as did the noble Baroness, Lady Campbell. The Government's position on how local authorities manage their finances is clear: they should have the freedom to meet their statutory responsibilities flexibly and responsively in line with local priorities. I hear the point made about a postcode lottery. It is a phrase which rolls off the tongue, but I am sure that the noble Baroness, who knows these areas very well, would acknowledge that there are wide differences in the take-up of the Independent Living Fund between local authorities. For example, wide differences in take-up have always existed between England and

Scotland. We believe that through establishing the code of conduct, through having those personal support plans and, most crucially, through instigating the minimum-eligibility criteria that the Care Bill upholds, these dangers will be minimised.

The noble Baroness, Lady Hollins, asked about monitoring and evaluation. We said in the equality analysis which took place following the court decision that we are committed to monitoring the impact of all policies relating to this area. I give a personal undertaking to relay to my colleagues at the Department for Work and Pensions the concerns raised by noble Members of this Committee today to ensure that we have the right monitoring system in place and that those who need this vital help continue to receive it.

Committee adjourned at 6.36 pm.

Written Statements

Monday 31 March 2014

Alcohol: Licensing

Statement

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach) (Con): My rt hon Friend the Secretary of State for the Home Department (Theresa May) has today made the following Written Ministerial Statement:

The Government has consulted on whether to relax licensing hours nationally for England matches with late kick off times during the FIFA World Cup in June and July 2014. Following this, the Government has decided to relax licensing hours nationally to mark England's participation in the tournament.

The relaxation of licensing hours will relate to the sale of alcohol for consumption on the premises and the provision of late night refreshment in licensed premises in England, at specified dates and times only.

Today I am publishing the Government response to the consultation.

A copy of the Government response to the consultation will be placed in the House Library. It is also available at: www.gov.uk/government/consultations/world-cup-licensing-hours

Architects Registration Board: Periodic Review

Statement

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Stowell of Beeston) (Con): My hon Friend the Parliamentary Under Secretary of State for Communities and Local Government (Stephen Williams) has made the following Written Ministerial Statement.

I am today announcing the start of the Periodic Review of the Architects Registration Board. Periodic Reviews are part of the Government's commitment to ensuring that all Arms Length Bodies continue to have regular challenge on their remit and governance arrangements.

The Review will examine whether there is a continuing need for the Board's functions (Architect Registration under the Architects Act 1997). Should the Review conclude there is a continuing need for the Board's functions it will go on to assess the most effective and value for money means of delivery and the appropriate control and governance arrangements needed to meet the recognised principles of good corporate governance. I will inform both Houses of the outcome of the Review when it is completed.

A copy of the Terms of Reference for this review has been placed in the Library of the House.

Companies House: Public Targets

Statement

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Viscount Younger of Leckie) (Con): My Rt hon Friend the Minister of State for Business and Energy (Michael Fallon) has today made the following statement.

I have set Companies House the following targets for the year 2014/15:

Public Targets
Customer
CH Direct services are available 99.7% of the time
WebCHeck services are available 99.7% of the time
WebFiling services are available 99.7% of the time
Software filing services are available 99.9% of the time
98% of document images ordered by search customers are available within the CH Direct download area within 35 seconds
Achieve an overall satisfaction score of more than 88% in the Companies House satisfaction Survey conducted by Ipsos Mori by end November 2014
To achieve a monthly soft compliance rate of 99% for accounts submitted to Companies House
To achieve a monthly soft compliance rate of 98% for returns submitted to Companies House
CEO to respond to all letters delegated to him from MPs within 10 working days of receipt
Digitisation
To achieve an average electronic filing target of 70% for accounts (received and accepted) by the end of the year
To achieve an average electronic filing target of 87.5% for all transactions (excluding accounts) by the end of the year
Staff Engagement
Ensure that the average working days lost per person is no more than 7.5 days
Process
To reduce carbon created from utilities by 10% per building user, at Crown Way (compared with previous year) by end of March 2015
99.9% of electronic transactions received are available to view on the public record (image format) within 48 hours
99.8% of electronic images on CH systems are complete and legible
99.8% of paper images on CH systems are complete and legible
Finance
95% of all undisputed invoices are paid within 5 days of receipt
Taking one year with another, to achieve a 3.5% average rate of return based on the operating surplus expressed as a percentage of average net assets
Achieve by 2016/17 a reduction, in real terms, of 25% compared to 2013/14 in the operational monetary cost of the operation's organisational costs (3 year target)

Defence Nuclear Safety Committee and Nuclear Research Advisory Council: Triennial Reviews

Statement

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): My right hon. Friend the Secretary of State for Defence (Mr Philip Hammond) has made the following Written Ministerial Statement.

I am today announcing the start of the Triennial Reviews of the Defence Nuclear Safety Committee (DNSC) and the Nuclear Research Advisory Council

(NRAC). Triennial reviews are part of the Government's commitment to ensuring that Non Departmental Public Bodies continue to have regular independent challenge.

The DNSC's remit includes all safety aspects relating to the naval nuclear propulsion plant and nuclear weapon systems, including related issues of design, development, manufacture, storage, in service support, handling, transport, operational training, support facilities and capabilities, and the safety of workers and the public.

The NRAC is responsible for reviewing the Atomic Weapons Establishment (AWE) nuclear warhead research and capability maintenance programme, including the requirement for above ground experiments and other facilities and techniques necessary to develop and maintain a UK nuclear weapon capability in the absence of underground testing; NRAC also examines AWE's programme of international collaboration.

The Reviews will examine whether there is a continuing need for DNSC and NRAC's function, their form and whether they should continue to exist at arm's length from Government. Should the reviews conclude there is a continuing need for the bodies, they will go on to examine whether the bodies control and governance arrangements continue to meet the recognised principles of good corporate governance.

I will inform both Houses of the outcome of the reviews when they are completed.

Defence Support Group

Statement

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): My hon. Friend the Minister for Defence Equipment, Support and Technology (Philip Dunne) has made the following Written Ministerial Statement.

The Strategic Defence and Security Review 2010 set out this Government's commitment to selling the Defence Support Group (DSG), currently a Trading Fund of the Ministry of Defence (MOD). This decision took account of the front line's enduring requirement for DSG's services, and concluded that, in principle, it was no longer necessary for Government to own and operate these capabilities. Contractor support to maintain equipment, including major platforms, has been recognised practice in the Air and Maritime domains for many years, so continued support to the Land domain by DSG under new ownership is entirely analogous. There is significant potential for the Land-focused elements of DSG in the private sector. We intend to structure the sale in such a way as to preserve continuing assured access to the services provided by DSG through a contract for service provision.

Over recent months, the MOD has conducted a pre-qualification process with industry and developed the prospectus on which DSG will be taken to market. As part of these preparations, including market testing and internal assessment, I have decided that the Electronics and Components Business Unit (ECBU) of DSG, and its sites at Sealand and Stafford, will be excluded from the sale and retained in the MOD. I have now taken the decision to launch the sale of the Land-focused business of DSG.

An Invitation to Negotiate has now been issued to nine potential single bidders and consortia who passed the pre-qualification stage. The nine parties represent a very strong and credible field of interested parties, demonstrating the high degree of market interest from the private sector and confidence in the DSG sale.

The DSG workforce and Trade Unions are being informed in parallel. The final sale decision will be taken later in the year after final bids have been received and evaluated. Sustaining the capabilities provided by DSG remains of critical importance to the Ministry of Defence and the British Army.

Selling the land business of DSG will be the best way to enable transformation into the long-term partner for the delivery of heavy vehicle repair services to the Army that we now require.

Democratic People's Republic of Korea

Statement

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): My right Honourable Friend, the Minister of State for Foreign and Commonwealth Affairs (Hugo Swire), has made the following written Ministerial statement:

On 27 March the UN Human Rights Council (UNHRC) passed a resolution on the situation of human rights in the Democratic People's Republic of Korea. I would like to update the House on this resolution and the role the UK has played in its passing.

Unlike in recent years, the resolution was not adopted by consensus. In part this reflects the current composition of the Human Rights Council, which is less supportive of country specific resolutions. But it also reflects the fact that this year's resolution was much stronger, following the horrific findings of the Commission of Inquiry into human rights violations in the DPRK and the comprehensive recommendations set out in the Inquiry's report. I am pleased to report that the final text of the resolution supports the report and makes clear the need for violators of human rights and perpetrators of crimes against humanity to be held to account. This includes a specific request that the UN Security Council consider referral of the situation in the DPRK to the appropriate international criminal justice mechanism.

The resolution also proposes concrete measures to ensure the work of the Commission of Inquiry is continued. The mandate of the Special Rapporteur is extended and the Office of the High Commissioner for Human Rights (OHCHR) is requested to provide the Rapporteur with increased support, including through a new structure to strengthen monitoring and documentation of the situation of human rights in the DPRK, as well as through engagement and capacity building of others working to address this issue. These measures will ensure that whenever and however the DPRK regime is brought to account, the material will be there to build a strong case against those responsible for violations.

The UK played an active role in negotiations on the resolution, working with EU partners and Japan to ensure a strong first draft, with clear language on

accountability. Officials lobbied hard to ensure the resolution would pass, as did I both during my own visit to Geneva at the beginning of the Council and subsequently.

The reports of human rights violations in the DPRK that are documented by the Commission of Inquiry are systematic and deeply disturbing. It is incumbent on the international community to respond. This resolution is a good start.

On 31 March 2014, during a pre-planned and pre-advised live-fire exercise, a small number of DPRK artillery shells landed in waters south of the Northern Limit Line (NLL) in the Yellow Sea. The South Korean military responded with its own artillery fire into waters on the northern side of the NLL. There were no reported casualties. We would urge both sides to exercise restraint and not to retaliate further. We do not believe this incident is connected to the Commission of Inquiry.

Energy: Thermal Analysis Review

Statement

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Baroness Verma): In November 2013, the Nuclear Decommissioning Authority's Radioactive Waste Management Directorate (RWMD) informed my Department of a modelling error in their assessments of the on-site cooling time required for spent fuel from new nuclear reactors before it could be placed in an off-site Geological Disposal Facility (GDF).

RWMD subsequently corrected the error and published revisions of two disposability assessments and a feasibility study that included data from the model. These can be found at: http://www.nda.gov.uk/rwmd/producers/latest.cfm and I have placed copies of these reports in the libraries.

There is no impact on safety at any existing site, as the corrections only increase the estimated length of time for which spent fuel from any new reactors would need to be kept in interim storage.

All other aspects of the corrected reports remain unchanged and RWMD has confirmed that the error does not affect future planning for a GDF.

My department has thoroughly assessed RWMD's corrected figures in relation to a number of previous decisions and policy areas, some of which were debated by Parliament. We have concluded that the corrected figures have no substantive impact on policy or previous decisions, including the Hinkley Point C deal.

I set out below our consideration and findings.

Regulatory Justification of the EPR and AP1000 reactor designs.

My predecessor published decisions in October 2010 that the EPR and AP1000 nuclear reactor designs were Justified in accordance with the Justification of Practices Involving Ionising Radiation Regulations 2004 ('the Justification Regulations'). These decisions took the form of Statutory Instruments which were approved by both Houses of Parliament in November 2010.

Justification decisions involve assessing the benefits of proposed new radioactive practices against their potential detriment to health. The published decisions took account of RWMD's modelling of interim storage times.

The Justification Regulations make provision for the circumstances in which a review may be undertaken. My assessment is that the revised modelling does not create any new health detriments that were not considered during the Justification process and does not raise any new issues about the ability to manage interim storage that may impact on the benefits of the EPR or AP1000 reactors.

I have therefore concluded that the revised modelling does not meet the "new and important" criteria needed to consider reviewing the Justification Decisions and that I do not need to review my predecessor's decisions.

Nuclear National Policy Statement and Hinkley Point Development Consent

The Nuclear National Policy Statement sets the framework for Development Consent decisions under the Planning Act 2008. It was approved by Parliament and designated in July 2011. It included a statement on waste disposal, based on RWMD's assessments, which made clear that interim storage would be needed on a range of timescales, during which facilities would continue to be effectively regulated.

The material in the NPS was referred to by the Planning Inspectorate in its advice to me on the application for development consent for the new nuclear power station at Hinkley Point and referred to by me in my decision.

There are no reasons to believe that the regulatory regime could not effectively regulate the increase in interim storage times under RWMD's revised assessments and I have therefore concluded that there are no grounds for a review of the Nuclear NPS or any of the decisions taken with reference to it.

Funded Decommissioning Programmes (FDP) and Waste Transfer Contracts

No decisions have yet been taken on whether or not to approve the Funded Decomissioning Programme for Hinkley Point C. Further to the publication of the corrected reports, the developer has been asked to update their respective FDP submission for the site and this information will be taken into account in any decision.

Euratom Article 37

General data was provided to the Commission in relation to the planned spent fuel storage facilities at Hinkley Point C. This data focused on the overall plans for storage, rather than the storage period, and already takes into account a margin of error that includes the corrected figures.

We have drawn the attention of the European Commission to the re-published reports, as they provide an opinion on Article 37 applications, but do not believe that any further action is necessary.

Generic Design Assessment (GDA) and Site licensing & permitting

The original disposability reports written by RWMD were used as evidence in the GDA process and cited in the Regulators' technical findings.

Further to the corrected disposability reports being published, the Regulators are working with EDF (the recipient of the GDA design acceptances for the EPR design) to assess if there are any impacts to their GDA decision and findings.

Should any changes be required these will be addressed as part of the wider, on-going site licensing and permitting process. Similarly any impact to the findings for the AP1000 design would be addressed in any subsequent assessment or site licensing and permitting process.

European Police College

Statement

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach) (Con): My rt hon Friend the Minister of State for Policing and Criminal Justice (Damian Green) has today made the following Written Ministerial Statement:

The Government has decided to opt in to the Member State Initiative for a Regulation of the European Parliament and of the Council to relocate the European Police College (CEPOL) from Bramshill (UK) to Budapest (Hungary) (European Union Document Nos. 2013/0812 (COD), ENFOPOL 395 CODEC 2773 PARLNAT 307).

The current CEPOL Council Decision states that the headquarters of CEPOL shall be in Bramshill. The draft Regulation replaces the part of the CEPOL Council Decision that specifies Bramshill, with a statement that the seat shall be in Budapest. The Bramshill site is owned by the Home Office, and is also currently used by the College of Policing. The site costs the Home Office £5m per annum to run, and is not economically viable. The Home Secretary therefore decided in December 2012 that Bramshill should be sold. It was placed on the market in the summer with a listing price of £20-25m, and we are on schedule to complete the sale by March 2015. The sale of Bramshill means that we will be unable to continue housing CEPOL there.

The publication of the draft Regulation is an important step towards ensuring that CEPOL vacates the Bramshill site in good time for any sale. Buyers would expect vacant possession, so in the context of securing the sale it is very much in UK interests to support the proposal. CEPOL have been guaranteed occupation of the site until September 2014, as the new site in Budapest will not be ready to house CEPOL until the end of August 2014.

We are keen to cooperate fully in the process of moving CEPOL from Bramshill to its new location. To give CEPOL staff some much needed assurance this process needs to be completed quickly. The Regulation has been helpfully progressed in the EU to accommodate our objectives in moving CEPOL from Bramshill.

Fishing: Common Fisheries Policy

Statement

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord De Mauley) (Con): My Hon Friend the Parliamentary Under-Secretary of State (George Eustice) has today made the following statement.

The UK Government is today launching a package of public consultations concerning the implementation of reforms to the Common Fisheries Policy (CFP).

As part of the reform of the CFP, a new basic regulation and Common Market Organisation of Fishery and Aquaculture Products (CMO) entered into force on 1 January 2014. The new European Maritime and Fisheries Fund (EMFF), which will support our fishing industry under these reforms, is due to be adopted shortly. The package of consultations being launched today covers aspects from all three of these areas.

Securing fundamental reform of the CFP was crucial, but successfully implementing these reforms is of equal importance to ensure that we can safeguard our marine environment and all those who rely on it.

One the most important achievements of the CFP reform negotiations is the phased introduction of a landing obligation, also known as a discard ban. The landing obligation will put an end to the wasteful practice of discarding, preventing fish being thrown back into the sea after being caught unless under very specific exemptions. This will start in 2015 for pelagic fisheries, and be rolled out to other fisheries from 2016.

The consultations launched today set out the Government's proposed approach to implementing the pelagic landing obligation in England. Some of the main issues that we are gathering views on include how we will ensure our stocks are managed sustainably, how we monitor compliance and how we manage available quota to match it to the catch that would previously have been discarded.

At the same time we are seeking views on how we can best use the EMFF to support implementation of the reformed Common Fisheries Policy. We are also consulting on a new national aquaculture strategy and how we implement changes to the fish labelling legislation in England and introduce new legislation on marketing standards in England and Wales for fishery and aquaculture products.

The CFP reform has attracted interest and passion from many different groups. A key element to making these reforms work in practice will be continuing to work closely with all those affected. This is why my department will continue to work closely with the fishing industry and other interested groups as we develop our policy to implement these reforms.

Nuclear Liabilities Financing Assurance Board: Triennial Review

Statement

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Baroness Verma) (Con): On 10th October 2013, I announced through a written ministerial statement, the commencement of the triennial review of the Nuclear Liabilities Financing Assurance Board (NLFAB). I am now pleased to announce the completion of the review.

NLFAB plays an important role providing independent and expert advice to Ministers on the financing arrangements in the Funded Decommissioning Programme (FDP).

Under the Energy Act 2008 the operator must submit the FDP to the Secretary of State. Nuclear related construction can only take place once the FDP has been approved by the Secretary of State.

The review concludes that the functions performed by NLFAB are still required and that it should be retained as 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 some recommendations in this respect; these will start to be implemented shortly.

The full report of the NLFAB review of can be found on the Gov.uk website: https://www.gov.uk/government/publications/triennial-review-report-nuclear-liabilities-financing-assurance-board-nlfab and copies have been placed in the Libraries of both Houses.

Policing

Statement

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach) (Con): My rt hon Friend the Secretary of State for the Home Department (Theresa May) has today made the following Written Ministerial Statement:

Her Majesty's Chief Inspector of Constabulary has today laid before Parliament his annual assessment of policing in England and Wales in accordance with Section 54 of the Police Act 1996. Copies are available at www.hmic.gov.uk and in the Vote Office.

Sri Lanka

Statement

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): My right Honourable Friend, the Secretary of State for Foreign Affairs (William Hague), has made the following written Ministerial statement:

Further to my written Ministerial statement of 18 March [40WS], the UN Human Rights Council (UNHRC) passed a resolution on Sri Lanka on 27 March. This resolution calls for an international investigation into allegations of violations and abuses of international law on both sides during the civil war, and for progress on reconciliation, human rights and a political settlement. The British Government is pleased with this outcome and strongly believes that it was the right decision.

My right Honourable friend the Prime Minister committed the UK to calling for an international investigation following his visit to Sri Lanka last year where he witnessed the situation on the ground first hand. The UK was an important co-sponsor of the resolution, alongside the US, Montenegro, Macedonia and Mauritius.

The passing of this resolution sends an important and strong message to the Sri Lankan government – that they must address the grievances of the recent past in order to help secure lasting peace and reconciliation, and a prosperous future for all the people of Sri Lanka. The resolution represents a significant step forward in ensuring the truth is established for the Sri Lankan people.

By voting in favour of this resolution, the international community has shown that it has listened to the many independent voices, including the High Commissioner for Human Rights herself and domestic support in Sri Lanka, calling for an international investigation and helped the UN HRC to establish a strong and unambiguous resolution. The United Kingdom will continue to work with the UN HRC and our international partners to ensure proper implementation of this resolution. We encourage the Sri Lankan government fully to co-operate with the resolution, and to work alongside the international community for the benefit of its people.

It is important also to recognise that Sri Lanka is an extraordinary country with enormous potential and the end of the conflict presents an opportunity for it to become a strong and prosperous nation. This resolution will help to address the legitimate concerns of all communities. It presents an opportunity to tackle the root causes of conflict, continued human rights concerns and set Sri Lanka on the right path for reconciliation. We hope that the Sri Lankan government will embrace that opportunity.

Written Answers

Monday 31 March 2014

Apprenticeships

Questions

Asked by ***Lord Touhig***

To ask Her Majesty's Government how many of the apprenticeships created in each of the last three years have lasted less than six months. [HL6142]

To ask Her Majesty's Government what percentage of apprenticeships lasting less than six months in each of the last three years was run by training providers and employers respectively. [HL6143]

To ask Her Majesty's Government what percentage of people found employment within three months of completing an apprenticeship which lasted less than six months in each of the last three years. [HL6144]

To ask Her Majesty's Government what has been the change in the number of apprentices paid below the minimum wage since 2010. [HL6145]

To ask Her Majesty's Government how many apprenticeships currently on offer lasting less than six months they consider as "high value vocational qualifications" and may be classed at Tech Levels. [HL6146]

To ask Her Majesty's Government how many apprenticeships lasting less than six months they include on their list of vocational qualifications which will be reported in 14–16 performance tables and in 16–19 performance tables. [HL6147]

Lord Ahmad of Wimbledon (Con): Information on Apprenticeship achievements by average length of stay is published online for the 2009/10 to 2011/12 academic years:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/284791/June13_Apprenticeship_ALOS.xls

Care should be taken when interpreting Apprenticeship durations as they are dependent on the mix of Apprenticeship levels and frameworks, and the prior attainment of learners (some will already have completed parts of the Apprenticeship). The adjusted measure is intended to exclude those Apprentices with some prior attainment.

We have taken steps to raise standards and improve quality. In August 2012 we introduced a minimum duration of 12 months for all Apprenticeships.

We do not make the distinction between employers and training providers who run Apprenticeship programmes; both are contracted as Apprenticeship providers with the Skills Funding Agency.

Information on Apprenticeship employment outcomes is not available broken down by the duration of the Apprenticeship. Learning outcomes data are published on the Further Education (FE) choices website to help better inform learner choices:

http://fechoices.skillsfundingagency.bis.gov.uk

The proportion of Apprentices estimated to be paid below their minimum wage in 2011 and 2012 is published in Table 2.8 of the Apprenticeship Pay Survey 2012. A comparable estimate is not available for 2010.

https://www.gov.uk/government/publications/apprenticeship-pay-survey-2012

Any substantive Level 3 qualifications taken as part of an Apprenticeship programme are included in the 16-19 performance tables. Overall Apprenticeship programmes are not currently listed separately, but it is intended that they will be in the future.

Asked by ***Lord Storey***

To ask Her Majesty's Government how many apprenticeship positions created by or facilitated by (1) Liverpool City Council, and (2) Liverpool Futures CIC, in each year since 2012 resulted in an offer of full-time employment for individuals involved. [HL6171]

Lord Ahmad of Wimbledon: Information on Apprenticeship participation by provider is published in a Supplementary Table to a Statistical First Release:

https://www.gov.uk/government/statistical-data-sets/fe-data-library-local-authority-tables

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/284386/January2013_Participation_by_Provider_Funding_Stream_Learner_and_Learning_Characteristics201112.xls

Information on learning outcomes is made available on the Further Education (FE) choices website to help better inform learner choices:

http://fechoices.skillsfundingagency.bis.gov.uk

Armed Forces: Officers

Question

Asked by ***Lord Willis of Knaresborough***

To ask Her Majesty's Government whether applicants for senior ranks above and including Colonel, Captain and Group Captain in the Army, Navy and Royal Air Force are required to include their educational history, including secondary school attended, when being considered for appointment. [HL6197]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): Officers are selected for promotion in the Armed Forces, and are not therefore required to apply. Selection is based purely on merit, performance, specialist skills and potential. Educational history is not considered, unless a candidate is being nominated for a competed post, or one requiring specialist qualifications. At no point is secondary education considered.

Armed Forces: Scotland

Question

Asked by ***Lord Bourne of Aberystwyth***

To ask Her Majesty's Government how much money is to be spent by the Ministry of Defence in each year from 2015 to 2020 in Scotland. [HL5768]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): Defence is a reserved issue and so the defence budget is not apportioned by region but is planned on a UK basis to provide the best levels of protection and security for all parts of the UK and its citizens at home and abroad. Decisions on future spending are therefore based on meeting the UK's defence and security requirements and ensuring value for money to the taxpayer.

Channel Islands

Questions

Asked by ***Lord Tyler***

To ask Her Majesty's Government how many UK Border Agency staff are permanently deployed in Jersey, Guernsey and Sark. [HL6248]

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach) (Con): There are no Border Force Officers deployed to Jersey, Guernsey or Sark.

Jersey has its own Customs and Immigration Service. Guernsey has an Immigration, Nationality and Passport Department. Both islands have their own immigration rules.

Asked by ***Lord Tyler***

To ask Her Majesty's Government what UK Border Agency controls are in place for entry into the UK from Jersey, Guernsey and Sark. [HL6249]

Lord Taylor of Holbeach: There are no physical border controls in place for those entering the UK from Jersey, Guernsey or Sark. Jersey, Guernsey and Sark are part of the Channel Islands. The UK, Channel Islands, Isle of Man and the Republic of Ireland collectively form a common travel area (CTA). Under Paragraph 15 of the UK Immigration Rules a person who has been examined for the purpose of immigration control in one part of the CTA does not normally require to be examined on arrival into any other part of the CTA.

Civil Service: Senior Posts

Question

Asked by ***Lord Willis of Knaresborough***

To ask Her Majesty's Government, as at 1 March, how many senior civil servants in the Ministry of Defence were male; and how many were educated privately. [HL6195]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): As at 1 March 2014, there were 183 male Senior Civil Servants in the Ministry of Defence. This figure includes those employed in Trading Funds and on loan from Other Government Departments (OGDs), but excludes those on loan to OGDs and those on Special Unpaid Leave.

Details of the education of members of the SCS are not held.

Cyclists: Fatalities

Question

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government what is being done to reduce the number of cyclist deaths on United Kingdom roads. [HL6269]

The Minister of State, Department for Transport (Baroness Kramer) (LD): I refer the Noble Lord to my answer of 24 Feb 2014, Official Report, column WA170 (HL5360). Since my answer we have launched the THINK! campaign on 24 March 2014.

Drugs: Prescribed Drug Addiction

Questions

Asked by ***Baroness Meacher***

To ask Her Majesty's Government what proportion of people in England are receiving (1) methadone therapy, and (2) buprenorphine therapy; what other types of treatments are available; and what is the breakdown of the usage of those types of treatments by each of the four Public Health England regions. [HL6069]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): Data on the proportion of people receiving medicines is not held centrally; the National Drug Treatment Monitoring System (NDTMS) collects data on patients who receive prescribing interventions in a range of settings, but not which drugs they are prescribed.

The Health and Social Care Information Centre publishes data on the number of prescriptions dispensed in the community and in 2012-13 just less than three million prescription items containing either methadone or buprenorphine were dispensed through primary care facilities.

In addition to methadone and buprenorphine, which are recommended by the National Institute for Health and Care Excellence (NICE) for treating drug misuse, drug treatment should always involve evidence based psychosocial interventions. These psychosocial interventions are designed to treat drug misuse and help drug misusers achieve specific treatment goals. They are the mainstay of treatment for the misuse of cocaine and other stimulants, and for cannabis and hallucinogens.

People receive prescribing and psychosocial interventions in different settings, and these are recorded by the National Drug Treatment Monitoring System (NDTMS) as;

— Community;

— Primary Care;

— Inpatient Unit (prescribing in this setting is mostly for detox);

— Residential rehab; and

— Recovery House.

The NDTMS data which shows how many people received psychosocial interventions and prescribing in each of these settings, broken down into the four public health regions is in the following table.

Table 5.2.3: Interventions received by clients in treatment 2012-13, new interventions

Pharmacological					
Setting & Intervention Type	*London*	*Midlands and East of England*	*North of England*	*South of England*	*National*
Community	9,804	20,069	22,027	14,620	66,520
In-Patient Unit	470	431	550	613	2,064
Primary Care	2,161	5,738	5,622	5,493	19,014
Prison	0	0	0	0	0
Residential	61	187	36	178	462
Recovery House	0	4	13	0	17
Total	12,105	25,374	29,139	19,774	86,392
Missing Setting	37	3	1,728	0	1,768

Psychosocial					
Setting & Intervention Type	*London*	*Midlands and East of England*	*North of England*	*South of England*	*National*
Community	20,347	27,441	37,968	24,097	109,853
In-Patient Unit	449	319	489	336	1,593
Primary Care	1,731	3,733	7,780	1,003	14,247
Prison	0	0	0	0	0
Residential	350	368	338	527	1,583
Recovery House	48	11	64	4	127
Total	22,246	31,231	47,004	25,171	125,652
Missing Setting	233	3	1,775	0	2,011

*Total number of individuals**					
Setting & Intervention Type	*London*	*Midlands and East of England*	*North of England*	*South of England*	*National*
Community	20,641	33,835	41,872	25,783	122,131
In-Patient Unit	473	463	644	624	2,204
Primary Care	2,766	6,406	10,416	6,025	25,613
Prison	0	0	0	0	0
Residential	352	381	345	533	1,611
Recovery House	48	15	65	4	132
Total	22,689	38,351	51,812	27,777	140,629
Missing Setting	236	3	1,782	0	2,021

* This is the total number of individuals receiving each intervention type and not a summation of the psychosocial and prescribing columns.

Table 5.2.3 provides information on interventions commenced after the changes to the core dataset on 1 November 2012 (see section 1.5 for more detail on this change). It shows the number of clients who received each intervention by setting for interventions starting on or after 1 November 2012 based on the new intervention codes. If a client's intervention features in Table 5.2.3, the same intervention (for interventions that can be directly mapped between tables) is not featured in Table 5.2.2 to avoid double counting.

Asked by ***Baroness Meacher***

To ask Her Majesty's Government how many patients in England receiving methadone or buprenorphine relapsed and received the same medication again on re-entry into treatment in (1) 2011, (2) 2012, and (3) 2013. [HL6070]

Earl Howe: The data requested is not collected centrally. However, the National Drug Treatment Monitoring System (NDTMS) collects data on people who have received a prescribing intervention, and can track if they re-enter the treatment system at a later date. The specific drugs they are prescribed or the prescribing intention is not recorded.

The following table below shows the numbers of people who indicated an opiate among their problematic substances and successfully completed treatment following a prescribing intervention, the numbers (of the above) who subsequently re-entered the treatment system within six months, and the numbers (of the above) who re-entered the treatment system indicating an opiate among their problem substances and then received a prescribing intervention.

It is important to note that since specific drugs prescribed are not recorded, we do not know which drugs were prescribed when the patient re-entered the treatment system. They may have been re-prescribed the same drug they were receiving before, or they may have been prescribed a different drug from the one they received before (e.g. they were receiving methadone, but received buprenorphine when they returned). It is also possible that they may have received prescribing for a different purpose when they returned to treatment. Some people who have received prescribing may return to treatment for support which does not involve prescribing.

The numbers recorded are those who received prescribing as part of any treatment pathway before they completed treatment, so may have been receiving a range of other interventions in different settings as part of their treatment journey (e.g. psychosocial interventions, residential rehabilitation and structured community based rehabilitation).

Figures are presented for 2011 and 2012 calendar years. The figures for 2013 are not yet available.

The NDTMS dataset has been changed (effective from November 2012) to take better account of prescribing intentions, so now it records whether prescribing was intended for assessment and stabilisation, maintenance, withdrawal or relapse prevention.

Group	*2011*	*2012*
Number of people in treatment for opiate use receiving prescribing interventions who successfully completed treatment	13,623	12,662
Number who re-entered treatment within six months	2,950	2,686
Percentage re-entering treatment	21.7%	21.2%
Number who re-entered treatment within six months and presented to treatment for opiate use and received a prescribing intervention	2,516	2,271
Percentage re-entering treatment who presented to treatment for opiate use and received a prescribing intervention	18.5%	17.9%

Asked by ***Baroness Meacher***

To ask Her Majesty's Government what proportion of people prescribed methadone have been assessed also for buprenorphine, in accordance with the recommendation of the National Institute for Health and Care Excellence. [HL6071]

Earl Howe: This data is not collected centrally. The National Drug Treatment Monitoring System (NDTMS) collects data on patients who receive prescribing interventions in a range of settings, but not which drugs they are prescribed.

EU: Imports

Question

Asked by ***Lord Pearson of Rannoch***

To ask Her Majesty's Government what was the weighted percentage average of effectively applied European Union tariffs borne by passenger cars made in (1) Japan, and (2) South Korea, and imported into the United Kingdom for the last year for which figures are available. [HL6086]

The Minister of State, Department for Business, Innovation and Skills & Foreign and Commonwealth Office (Lord Livingston of Parkhead) (Con): In 2013 the weighted average tariff effectively applied to passenger cars imported into the UK from Japan was 10% and from South Korea was 4.7%. Under the terms of the EU-Korea Free Trade Agreement the EU's tariffs on Korean cars are being phased out and will eventually fall to zero.

Government Departments: Surveys

Questions

Asked by ***Lord Mendelsohn***

To ask Her Majesty's Government what customer, user and satisfaction surveys were conducted in the last 12 months in the Attorney General's Office and the agencies that report to it; which of them have been reported to the management board in the last 12 months; and which were commissioned by the management board. [HL5907]

The Advocate-General for Scotland (Lord Wallace of Tankerness) (LD): The Treasury Solicitor's Department (TSol), which provides legal services to a number of government departments and bodies, conducted an annual client satisfaction survey in January 2014. The outcome of the survey was reported to the TSol Board and is one of the measures agreed with TSol by HM Treasury.

The Crown Prosecution Service (CPS) are conducting a survey of victims of crime who had received the revised victim communication and liaison scheme which is currently being piloted by three CPS Areas. The survey is still ongoing but will feed into the evaluation of the pilots later this year.

There have been no other external customer, user or satisfaction surveys conducted by the Law Officers' Departments during the past 12 months.

Asked by ***Lord Mendelsohn***

To ask Her Majesty's Government what customer, user and satisfaction surveys were conducted in the last 12 months in the Wales Office and the agencies that report to it; which of them have been reported to the management board in the last 12 months; and which were commissioned by the management board. [HL6217]

The Parliamentary Under-Secretary of State, Wales Office (Baroness Randerson) (LD): The Wales Office has not conducted any customer or user surveys in the last 12 months.

However, the Wales Office conducts a staff engagement survey annually, and the results are reported to the Department's management board.

Asked by ***Lord Mendelsohn***

To ask Her Majesty's Government what customer, user and satisfaction surveys were conducted in the last 12 months in the Department for Work and Pensions and the agencies that report to it; which of them have been reported to the management board in the last 12 months; and which were commissioned by the management board. [HL6218]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): The Department for Work and Pensions conducts an annual Claimant Service and Experience Survey which measures customer satisfaction. The survey includes customers of Jobcentre Plus and the former agency Pensions, Disability and Carers Service. Fieldwork for the 2013 survey was completed in September. The survey is approved by the Operations Executive Team and key findings have been reported to them.

The Child Maintenance Group conducts customer satisfaction surveys to cover all its statutory schemes. Quarterly surveys are run for the 1993/2003 and 2012 schemes and a monthly survey for the Options Gateway to tell how customers think suppliers are delivering service. All of these surveys are commissioned and reviewed for internal use by the CMG Executive Team.

Health: Parkinson's Disease

Question

Asked by ***Baroness Howe of Idlicote***

To ask Her Majesty's Government what plans are in place in Health Education England to ensure that its programme of work includes emphasis on Parkinson's medication being given on time. [HL6158]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): Timely delivery of medication will form part of wider work on medicines optimisation, which is being led by the National Institute for Health and Care Excellence and professional bodies, including the Royal Pharmaceutical Society (RPS). The RPS issued *Professional Standards for Hospital Pharmacy Services; Optimising patient outcomes from medicines* in 2012. This states that pharmacists should take steps to minimise omitted and delayed medicines doses in hospitals.

Additionally, on 19 March 2014, Health Education England (HEE) launched a new framework to help pharmacy professionals to improve their skills in carrying out consultations with patients about medicines and in delivering public health messages, including those with Parkinson's disease.

HEE will work with stakeholders to influence training curricula as appropriate although the content and standard of clinical training is ultimately the responsibility of the professional bodies.

Higher Education: Television Services

Question

Asked by ***Lord Wigley***

To ask Her Majesty's Government how many universities or other institutions of higher education in England are able to use their funds to operate their own television services, or invest in facilities for use by independent television service providers. [HL6110]

Lord Ahmad of Wimbledon (Con): Higher Education Institutions are autonomous institutions which can use the income they receive from various sources for any service consistent with their own charitable purpose and their legal obligations.

Housing

Question

Asked by ***Lord Whitty***

To ask Her Majesty's Government how much money has been borrowed by local authorities in England for house building in each of the last five years; and what was the cap on such borrowing for each of those years. [HL6064]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Stowell of Beeston) (Con): We do not hold data on how much local authorities have borrowed for the purposes of house building.

The limit on borrowing is for the purposes of all capital expenditure on a local authority's housing stock, which would include house building. In England, these limits only apply to the 167 local authorities who still retain sufficient housing stock to necessitate them maintaining Housing Revenue Accounts.

Before the financial year 2012-2013 borrowing was controlled through a complex revenue redistribution in the housing subsidy system. The Self-Financing Settlement reform introduced by this Government has given local authorities control over their own housing revenue, but limits have been introduced to control public sector borrowing, given that such borrowing counts against the Public Sector Borrowing Requirement. A table showing the 2012-2013 borrowing limit for each stock-holding authority, which has remained the same for 2013-2014, is being deposited in the Library of the House.

We have commissioned an independent review to consider how local authorities are using their freedoms and flexibilities under self-financing to deliver new housing, and what more they might do to support housing supply.

NHS: General Practitioners

Question

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government how many people they estimate are having their health put at risk because they have to wait too long to see their general practitioner. [HL6267]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): We have been advised by NHS England that data on the number of people having their health put at risk because they have to wait too long to see their general practitioner (GP) is not collected.

NHS England has also advised that public health policy to improve awareness of potentially serious, so called red flag symptoms, is being rolled out. GPs should use a variety of methods to allow urgent assessment when such symptoms are reported.

We know that 76% of respondents to the GP patient survey stated that their experience of getting a GP appointment was either very good or fairly good.

NHS: Private Patients

Question

Asked by ***Lord Campbell-Savours***

To ask Her Majesty's Government in what circumstances private patients awaiting or receiving treatment are accommodated in the same wards as National Health Service patients, in National Health Service wards in National Health Service hospitals. [HL6321]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): National Health Service hospitals must ensure that private and NHS care are kept as clearly separate as possible. Any privately funded care must be provided by an NHS trust at a different time and place from NHS commissioned care except in exceptional circumstances such as when doing so would endanger patient safety.

Non-departmental Government Bodies: Staff

Question

Asked by ***Lord Adonis***

To ask Her Majesty's Government how many employees were recruited by the Student Loans Company in 2013; and, of that number, how many were graduates. [HL6038]

Lord Ahmad of Wimbledon (Con): The Student Loans Company recruited a total of 499 employees in 2013.

The organisation does not centrally hold details relating to the qualification levels of staff.

Pensions

Questions

Asked by ***Lord Harrison***

To ask Her Majesty's Government what recent steps they have taken to ensure that information on the engagement activities of pension funds and other institutional investors with investee companies is made fully accessible. [HL6270]

To ask Her Majesty's Government what assessment they have made of the case for large occupational defined contribution pension schemes to be active owners or stewards of their assets, in line with the definition of stewardship as outlined in the Financial Reporting Council's Stewardship Code. [HL6271]

To ask Her Majesty's Government what assessment they have made of the case for large occupational defined benefit pension schemes to be active owners or stewards of their assets, in line with the definition of stewardship as highlighted in the Financial Reporting Council's Stewardship Code. [HL6272]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): The Government supports the principles set out in the Financial Reporting Council (FRC) UK Stewardship Code including schemes becoming active stewards of their investments and reporting on that stewardship. The Code sets out a number of areas of good practice to which the FRC believes institutional investors should aspire, and operates on a 'comply or explain' basis. It includes guidance for pension schemes and other asset owners on steps they can take to protect and enhance the value that accrues to the ultimate beneficiary. The FCA requires UK authorised asset managers to report on whether or not they apply the Code.

The UK stewardship code is voluntary, however we would encourage workplace pensions schemes to comply with the principles set out in the code. In addition we are developing governance standards of workplace defined contribution schemes, and have asked the Law Commission to investigate how fiduciary duties currently apply in the investment chain. The Pensions Regulator's defined contribution Code of Practice also sets out the legal requirements and standards they expect trustees of defined contribution schemes to attain. This includes a section on investment which also references the FRC Stewardship code. These initiatives are part of our on-going work to ensure schemes are governed and administered to deliver in members' interests.

Asked by ***Lord Harrison***

To ask Her Majesty's Government, in the light of the findings of the Kay Review, what role they consider that local authority pension funds should take in leading the way in becoming active owners of their assets. [HL6275]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Stowell of Beeston) (Con): Each local authority that administers a pension fund in England and Wales is already subject to statutory guidance regarding adoption of the Financial Reporting Council's Stewardship Code and is required to publish its statement of the principles governing its investment decisions. Ministers will consider whether the existing guidance needs to be revised in the light of the findings of the Kay Review.

Police: Strip Searches

Question

Asked by ***Lord Beecham***

To ask Her Majesty's Government whether, in the light of the disavowal by HM Chief Inspector of Prisons and HM inspector of Constabulary of the Metropolitan Police's statement that they had

found the use of strip searches of children in custody to be "proportionate and appropriate", whether they will institute an inquiry into the Metropolitan Police's practice of such searches. [HL6208]

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach) (Con): It is important that the police have the ability to conduct a thorough search of any suspect (irrespective of age) whilst in police custody, not only to investigate crimes of which they are suspected, but also for their own safety whilst in custody. The use of these powers is an operational matter for the Chief Constable of each police force in England and Wales. However, their use must be in accordance with the safeguards set out in the Police and Criminal Evidence Act 1984 Code of Practice C.

The Government takes the welfare of children very seriously. It is for this reason that the Home Secretary has asked Her Majesty's Inspector of Constabulary to include the use of the strip search procedure on children as part of the thematic inspection into the treatment of vulnerable people in police custody, which was commissioned in January.

Railways: Euston Station

Question

Asked by ***Lord Bourne of Aberystwyth***

To ask Her Majesty's Government what plans they have for the re-development of Euston station. [HL6050]

The Minister of State, Department for Transport (Baroness Kramer) (LD): The construction of the HS2 terminus at Euston station is a significant opportunity to maximise the economic potential of the high speed line and regenerate a site that has been neglected. Building on the current proposals in the hybrid Bill, the Government has asked HS2 Ltd and Network Rail to work with the rail industry and the local community to see if a more comprehensive proposal for the redevelopment of the station can be developed.

Railways: High Speed 2

Questions

Asked by ***Lord Harris of Haringey***

To ask Her Majesty's Government when they expect to publish their response to the HS2 Property Compensation consultation. [HL6231]

To ask Her Majesty's Government what is the difference both in absolute terms and in percentage terms in the compensation for those affected by HS2 who (1) live in the Rural Support Zone, and (2) live outside it. [HL6232]

To ask Her Majesty's Government whether they will publish the boundaries of the Rural Support Zone for HS2 and list the local authorities within which the Zone falls. [HL6233]

To ask Her Majesty's Government whether people who live outside the Rural Support Zone whose properties are affected by HS2 will be considered for a property bond scheme. [HL6234]

The Minister of State, Department for Transport (Baroness Kramer) (LD): The Government is not yet able to confirm the outcome of the recent consultation on property compensation for Phase One of HS2, but expects to make an announcement soon.

Schools: Governors

Question

Asked by ***Lord Storey***

To ask Her Majesty's Government what steps they are taking to fill vacant school governor positions. [HL6223]

The Parliamentary Under-Secretary of State for Schools (Lord Nash) (Con): Responsibility for filling a vacancy on a governing body rests with the relevant appointing body for that vacancy. This will vary depending on the category of school and the category of governor.

Governing bodies should review their membership and size on a regular basis and ensure that appointments are made in an efficient and timely manner. The Governors' Handbook recommends that for every vacancy, governing bodies should conduct a skills audit to identify any gaps in the skills, knowledge and experience of existing governors. Governing bodies should also set out the specific skills and experience that the school needs for the relevant appointing body or electorate.

The Department for Education has committed funding to School Governors' One-Stop Shop (SGOSS), the governor recruitment charity, to March 2015. SGOSS provides a free service, matching high quality candidates that want to become governors with schools that have governor vacancies, according to the skills the schools need. In addition we are working with employers to encourage them to promote volunteering as a governor to their staff. This can potentially provide schools with an important source of highly skilled governors and is also an excellent learning and development opportunity for the employees concerned, carrying benefits back to their employer.

Ukraine

Question

Asked by ***The Earl of Sandwich***

To ask Her Majesty's Government what is their estimate of the extent of illegal transactions and embezzled funds from Ukraine being invested in the City of London; and what plans they have to enable some of those funds be repatriated. [HL6190]

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach) (Con): HM Treasury has implemented European Union sanctions against individuals identified as responsible for the misappropriation of Ukrainian state funds.

The result of these sanctions is that any assets in the UK, which are owned, held or controlled by any of the 18 listed individuals identified as responsible for the misappropriation of state funds are now frozen. We will be working to ensure that these measures are robustly implemented, including by looking to uncover assets which may be hidden behind complex company structures.

A multi-agency team comprised of the National Crime Agency, the Metropolitan Police Service and the Crown Prosecution Service has visited the Ukraine to offer technical assistance and support to the Ukrainian authorities in their efforts to identify and recover embezzled state funds. All appropriate criminal justice and administrative routes to support the Ukrainian authorities are being pursued.

Winter Fuel Allowance

Question

Asked by ***Lord Bradley***

To ask Her Majesty's Government how many pensioners received winter fuel payments in each of the parliamentary constituencies in the city of Manchester in (1) 2010–11, (2) 2011–12, and (3) 2012–13. [HL6375]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): The information is available: https://www.gov.uk/government/collections/winter-fuel-payments-caseload-and-household-figures.

Monday 31 March 2014

ALPHABETICAL INDEX TO WRITTEN STATEMENTS

Monday 31 March 2014

ALPHABETICAL INDEX TO WRITTEN ANSWERS

NUMERICAL INDEX TO WRITTEN ANSWERS

Volume 753
No. 138

Monday
31 March 2014

CONTENTS

Monday 31 March 2014

Grand Committee