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House of Lords

Monday, 15 July 2013.

2.30 pm

Prayers—read by the Lord Bishop of Norwich.

Introduction: Lord Livingston of Parkhead

2.38 pm

Ian Paul Livingston, Esquire, having been created Baron Livingston of Parkhead, of Parkhead in the City of Glasgow, was introduced and took the oath, supported by Lord Reid of Cardowan and Lord Green of Hurstpierpoint, and signed an undertaking to abide by the Code of Conduct.

Death of a Member: Lord Chitnis

Announcement

2.43 pm

The Lord Speaker (Baroness D'Souza): My Lords, I regret to inform the House of the death of the noble Lord, Lord Chitnis, on 12 July. On behalf of the House, I extend our condolences to the noble Lord's family and friends.

Retail: Portas-plus Package

Question

2.44 pm

Asked by ***Lord Naseby***

To ask Her Majesty's Government, further to the Answer by Baroness Hanham on 12 February (HL Deb, col. 557), what proposals they have to boost independent retailers in addition to the Portas-plus package.

Lord Naseby: My Lords, I beg leave to ask the Question standing in my name on the Order Paper. In doing so, I declare an interest in that a member of my family works in the retail trade.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): My Lords, following the Portas review, we have lifted planning restrictions, doubled small business rate relief to help small shops, and provided communities across the country with a multimillion pound package of support so that they can drive new ideas for their local economy. Beyond the Portas pilots, the Government have invested millions through the High Street Innovation Fund and high street renewal awards. This is alongside more than £115 million of government funding to boost enterprise and initiate business start-ups.

Lord Naseby: Is the Minister aware that the Portas proposals and the extensions to them that she has just announced are enormously welcome to everybody in the retail trade? Nevertheless, two dimensions are hitting Britain's high streets today. The first is low demand for the past two and a half years, which we all understand, because of the state of the economy and what we inherited in that dimension. The second, however, is business rates. Business rates have now reached the extent that they are the largest single overhead of any retailer, particularly the independent retailers. Against that background, can my noble friend confirm that there will be a commitment from the coalition Government to find a fairer way to tax both the high street and the online traders?

Baroness Hanham: My Lords, as the noble Lord will know, the Government have doubled the level of small business rate relief for the past three and a half years, and the higher level of relief will be available throughout the next year. Approximately half a million small businesses in England are estimated to benefit from that. We have also given authorities powers to grant their own business rate discounts, and central government is funding 50% of that. We have also reduced, and are reducing, corporation tax for larger businesses and corporate structures. Although I understand that concern is expressed by some about their business rates, I am not aware of any plans to change the system.

Lord Cotter: My Lords, pro rata to turnover, small shopkeepers provide more jobs than the big supermarkets do, although we are also seeing a great increase through mini-expresses and other means employed by the supermarket chains. It is welcome that the Government have come forward with schemes for business rates but those schemes lack a certain breadth and viability for many people. Will my noble friend look into the unfair situation whereby small shopkeepers frequently pay considerably more in business rates, based on turnover, than the big chains do?

Baroness Hanham: My Lords, I am not totally sure that they do. Business rates, as the noble Lord knows, are levied on the rate of rent paid so that, whatever happens, payments will be consistent. I am aware that there is concern about this, as I have acknowledged. However, I think that the Government feel at the moment that there is nothing to do to change that except to give small businesses the relief that I have already described.

Lord McKenzie of Luton: My Lords, the Question of the noble Lord, Lord Naseby, refers to "independent retailers". Is that a distinction which is reflected in government policy, and what definition has been adopted?

Baroness Hanham: My Lords, I have accepted my noble friend's interpretation. Independents, of course, are small retailers which, as the term suggests, are not part of a chain. On the other hand, small retailers may be part of a chain. It depends on the size of the business. To be clear, we are looking to ensure that small businesses can thrive in high streets. I have outlined the measures that we have taken to try to ensure that and to support them over the coming years.

Lord Phillips of Sudbury: Will my noble friend please take into account, when considering improvements to this already useful package, the fact that we are, in our times, seeing a decrease in the cohesion of local

[Lord Phillips of Sudbury]
communities? Independent shopkeepers give character to town centres but also, more importantly, very often support local community activities in a way that the supermarkets totally fail to do. Will the Government take account not only of that but of the crazy disparity in tax payments between the little local shop on the high street and some of the big online retailers?

Baroness Hanham: My Lords, I totally agree with my noble friend that local, small and independent shops help provide community cohesion. There are many in my area which I know are very valued for the work that they do. One of the reasons why we are very anxious to see the high street flourish is that these independent traders are there, as well as others. After all, they are the centre of local communities, and they should be the generator. You meet people in the local butcher's, and you meet people on the high street. They are also keen to take part. I fully accept that from my noble friend.

Baroness Farrington of Ribbleton: My Lords, will the Minister tell the House whether any government support or money is available for the conversion of space above high street shops to housing accommodation? There is a great demand for affordable housing in the centres of many of our towns and small cities. What are the Government doing to assist that?

Baroness Hanham: My Lords, as I indicated in my opening remarks, the Government have made changes to the planning regime which will enable local shops to become residences if that is a suitable change. I totally agree with the noble Baroness about the empty space above so many shops. Yes, we are very anxious to see those brought into use, and under permissive development they could be, but there are often structural reasons why they cannot, for example because they have no separate entrance. However, I take the noble Baroness's point, which is very well made.

Medical Litigation: Impact on Medical Innovation

Question

2.51 pm

Asked by ***Lord Saatchi***

To ask Her Majesty's Government what assessment they have made of the impact of medical litigation on medical innovation.

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): My Lords, it is the Department of Health's view that no assessment is required as no changes are needed to the law or medical guidance in this area. The current system allows for doctors to initiate novel treatments provided that they are evidence-based, in the best interests of the patient, and with patient consent. While the law does not seek to block innovation, it does require new forms of treatment to be rigorously tested before being introduced.

Lord Saatchi: My Lords, would my noble friend allow me to share the latest figures with your Lordships' House? The number of lawsuits filed against the NHS last year was double the level of four years ago. Last year the payout of claims against the NHS was £1.2 billion. The current Treasury provision for likely payouts in the future for litigation against the NHS is now over £19 billion. Against that backdrop, is there not a danger that the growing fear of medical litigation leads to a growing bias against medical innovation? Will my noble friend consider the warnings of judges about the tendency of current law to inhibit medical progress? For example—

Noble Lords: Too long!

Lord Saatchi: I will shorten what I was going to say. Will my noble friend consider the warnings of judges, including that of the noble and learned Baroness, Lady Butler-Sloss, that under current law no innovative work—such as the use of penicillin, or performing heart transplant surgery—would ever be attempted?

Earl Howe: My Lords, naturally I share my noble friend's concern about the level of litigation in the NHS. Having said that, I have seen no evidence that a particularly large or indeed significant element of that bill relates to medical innovation. We need to reflect that all treatments in routine use in the NHS today began as innovative treatments. We continue to support the introduction of new and innovative treatments in the NHS. I think that, if anything, doctors have more concerns about being reported to the General Medical Council than they do about being sued.

Lord Campbell-Savours: My Lords, is there not a danger that the requirement to publish the patient mortality rates of individual surgeons will act as a disincentive for surgeons to innovate and take risks in circumstances where patients themselves might want those surgeons to take a risk?

Earl Howe: There is indeed a danger that if the information that is published has not been carefully scrutinised to make sure that it is balanced and reflects faithfully the performance of the individual surgeon or the surgical team. I share the noble Lord's concern that we should not just release information that has not been carefully examined in that sense, but there is a value, I suggest, to patients and clinicians themselves to have benchmarking metrics against which to judge performance.

Lord Walton of Detchant: My Lords, does the Minister agree that there is a longstanding Bolam judgment—which to the best of my knowledge is still active—to the effect that, in the management of a particular patient, a doctor is not negligent if he or she has acted in accordance with the views of a group of informed medical opinion? It does not have to be the majority medical opinion so long as the individual has acted in accordance with the views of a well recognised group of other doctors.

Earl Howe: I agree with the noble Lord, subject to one qualification, which was the judgment in Bolitho, which held that a doctor may be negligent even if there is a body of medical opinion in his favour.

Lord Mawhinney: My Lords, by how much are litigation figures reduced by the intervention of mediators or arbitrators?

Earl Howe: I cannot give my noble friend a figure for that, but I can tell him that mediation and arbitration are increasing features in cases of this kind. We are very keen for that mechanism to grow, because the more that cases get into the hands of lawyers—I say this with great respect to noble Lords who are lawyers—the higher the bill to the NHS and the more distress there is to patients and families.

Baroness Wall of New Barnet: My Lords, I congratulate the noble Lord, Lord Saatchi, on linking these two important issues of innovation and litigation. I worry that the innovation that has become part of the Liverpool care pathway has had the reaction that it has. We understand today that there is going to be a cessation of that care pathway, because people are reporting being tarnished by it, whereas many patients have had great experiences and families' involvement in that. It concerns me that we will either stop something because there is an issue about it or stop innovating.

Earl Howe: I share the noble Baroness's concern, but at the same time I recognise that the noble Baroness, Lady Neuberger, and her expert group have done a very thorough job of work. It is now up to the Government and the whole medical community to consider and reflect on the conclusions that the noble Baroness has reached. One thing that she has said is that her decision is not a recommendation to move away from best practice in end-of-life care.

Lord Marks of Henley-on-Thames: My Lords, while of course we need to be cautious about encouraging a compensation culture, does my noble friend agree that medical litigation not only secures compensation for many who deserve it but does a great deal to maintain and improve medical standards in this country?

Earl Howe: My noble friend makes an extremely important point. Our policy is that it is right that NHS patients who are injured as a result of clinical negligence should be able to obtain correct and full compensation. Under the current system, compensation is in general paid only where legal liability can be established. The underlying principles are clear cut and enshrined in common law.

Lord Patel: My Lords, does the Minister agree that the only bar to surgeons introducing new surgical procedures is that they subject them to external audit to make sure that they do not harm patients?

Earl Howe: As far as I am aware, the noble Lord is absolutely right. That is a very important point.

Airports: Passenger Numbers

Question

2.59 pm

Asked by ***Lord Clinton-Davis***

To ask Her Majesty's Government how many passengers used each of the United Kingdom's main airports in May 2013; and how many in May 2012.

Lord Clinton-Davis: My Lords, I beg leave to ask the Question standing in my name on the Order Paper. In doing so, I declare that I am life president of BALPA.

Earl Attlee: My Lords, the noble Lord asks for a lot of data. The Civil Aviation Authority publishes monthly statistics on the number of passengers at each reporting airport. By way of example, passenger numbers at Heathrow exceeded 6 million in May this year, up 5% compared with May last year. At Gatwick, passenger numbers exceeded 3 million, up 8% from the same time last year.

Lord Clinton-Davis: I thank the noble Earl for that information. Does he agree that inordinate delay in selecting a new hub airport can only give Paris, Amsterdam and Frankfurt a real, perhaps decisive, advantage, which will be immensely difficult, if not impossible, to reverse? Why do the Government not recognise that, with improved access, Heathrow will provide a speedier answer than any other airport in existence today—one that would hugely benefit British aviation and our economy as a whole?

Earl Attlee: My Lords, I do not agree that there is inordinate delay. This is an extremely important decision. There is no right answer and when we find our solution we must have national consensus. The Airports Commission is the right way of determining the right answer and getting national consensus.

Lord Spicer: My Lords, how long will it take to complete the latest Boris Johnson wheeze?

Earl Attlee: My Lords, I am sure that the Airports Commission will take into account the practical difficulties and advantages of "Boris Island".

Lord Foulkes of Cumnock: My Lords, does the Minister agree that there would be many more flights out of United Kingdom airports if air passenger duty was not so high? This is particularly the case for the Caribbean: the friends and family of people who live there are unable to go back to visit them because of the very high level of air passenger duty. A proposal has been put to the Department for Transport to change the level for to the Caribbean, but we have not yet had a response. Could the Minister say when that response will be forthcoming? I hope that he will give it sympathetic consideration.

Earl Attlee: My Lords, it is first important to understand that air passenger duty is essentially a revenue-raising tax—that is its purpose. It is not so much an environmental tax. APD is not a tax on international aviation fuel, which would be prohibited by the Chicago Convention. As I said, APD is a revenue-raising tax, which needs to be clear and simple and to ensure a fair contribution from the sector to public finances.

Lord Bradshaw: My Lords, I wonder whether the noble Earl agrees that, in answer to the Question of the noble Lord, Lord Clinton-Davis, the key issue is how many people move from one aeroplane to another at airports; and to exclude from some of these large figures all the people who stop here for a period? That way, we can separate the number of interlining passengers from the destination passengers.

Earl Attlee: My Lords, as usual, my noble friend is on the money. The Airports Commission has access to the statisticians and data available at the Department for Transport to inform its research and decisions.

Baroness Scotland of Asthal: My Lords, I wonder whether the noble Earl would reconsider the answer he gave to my noble friend Lord Foulkes, when he said that air passenger duty is simply a revenue-raising tax? Is the noble Earl suggesting that Her Majesty's Government do not take into account the severe impact that such a tax has on a region that is vulnerable and in need of help and support?

Earl Attlee: My Lords, the Government do consider the effect of APD. For instance, we have devolved APD to Northern Ireland because we faced competition from Dublin, which meant that the Belfast airports were getting into difficulties with the transatlantic trade. I understand the noble and learned Baroness's point and that of the noble Lord, Lord Foulkes, about families wanting to go to the Caribbean, but I should also point out that there is quite a lot of holiday traffic to the Caribbean as well.

Lord Naseby: How can it be right that this tax is lower if you go all the way to Los Angeles than it is to get to the Caribbean? We do not have too many families going to Los Angeles on the lower rate but we have thousands who want to go to the Caribbean.

Earl Attlee: My Lords, as I tried somewhat clumsily to explain, we have to make sure that air passenger duty is not a tax on fuel. Therefore, we cannot tax per mile because, effectively, that would be a tax on fuel and we would fall foul of the Chicago Convention. It is, I accept, a fairly crude calculation and you can get peculiar results, as my noble friend suggests.

Lord Faulkner of Worcester: Can the Minister give an assurance that the claims of Birmingham Airport will be considered in the airport review, bearing in mind that it is the one airport in the country that has spare capacity; that there is not the degree of opposition to expansion and building new runways there that exists at Heathrow, Gatwick or Stansted; and that it will be less than an hour from London by high-speed train?

Earl Attlee: My Lords, I can assure the noble Lord that the Airports Commission will take into account the benefits of Birmingham Airport and, in particular, the arrival of HS2, because that will make a big difference. I am certain that that will be within its calculations.

Lord Davies of Oldham: My Lords, the Minister must have noticed considerable activity by airport interests in putting their case before the public. When the Minister travels by Tube, as I am sure he does, in recent weeks he must have left this House and walked past advertisements raising that issue. What reply do the Government give to those important interests? Is it the same lame reply of long delays that we get in this House?

Earl Attlee: My Lords, I am confident that the Airports Commission is well able to see past an advertising campaign.

Digital Strategy

Question

3.06 pm

Asked by ***Baroness Lane-Fox of Soho***

To ask Her Majesty's Government what plans they have following their digital strategy to enable adults to acquire the necessary skills to make use of digital services.

Baroness Lane-Fox of Soho: My Lords, I beg leave to ask the Question standing in my name on the Order Paper and, in so doing, declare an interest as chair of Go ON UK.

Lord Wallace of Saltaire: My Lords, we are setting up a cross-government team to lead and co-ordinate the Government's work on digital inclusion. This will help offline adults and businesses to develop their digital skills. The team will work closely with Go ON UK, as the noble Baroness is well aware.

Design of assisted digital provision is in the early stages. This is how offline adults will access central government digital services. We are considering how to include an element of learning in that provision to encourage offline adults to use digital services independently in future.

Baroness Lane-Fox of Soho: My Lords, I thank the Minister for his Answer, and I commend the Government's use of digital services. However, as he will be aware, all the data show that it is the lowest income households who have the most to gain from those services but are often the hardest to reach. I wonder what steps the Government are taking to ensure that this complex problem is addressed and that no one is left behind.

Lord Wallace of Saltaire: My Lords, I was visiting a large housing association in Bradford on Friday morning and was happy to learn that it provides for its tenants centres where people who do not have the skills can go to be helped to use the internet. That is very much part of what is in line. The noble Baroness will be aware that there is a joint DWP-DCLG scheme, which is working with the private sector to provide that for social landlords. That is one way in which one reaches one of the harder areas of the population which we must reach.

Lord Clement-Jones: My Lords, as regards the Government's digital strategy, the NAO has recently pointed out that there are slipping projections for superfast broadband to rural areas, a lack of competition and the need to change the procurement model. Are not these serious criticisms, and is not the plan not to implement the Digital Economy Act until 2015 another disappointment?

Lord Wallace of Saltaire: My Lords, I am something of an expert when it comes to which parts of the Yorkshire Dales National Park one cannot get mobile access. I am conscious that there are all sorts of contradictions in wanting to develop rural broadband, with national parks resisting having mobile phone masts put up all over them.

Some weeks ago, the Chief Secretary to the Treasury announced, as part of the *Investing in Britain's Future* package, that there will be an additional £250 million match-funded to extend superfast broadband to such hard-to-reach areas.

Baroness Bakewell: My Lords, are the Government aware that more and more councils are going online? In fact, they are offering a bribe—a reduction for people who pay their bills online—thus penalising the millions of older people who are not willing or able to go online themselves. Surely the health cost of isolating more and more older people from the free running of society and their councils is something the Government should take into account.

Lord Wallace of Saltaire: My Lords, the Government very much take that into account. Incidentally, the statistics do not show that all older people are incapable of using digital services. The assisted digital scheme is precisely a means of helping people who do not find it easy to access the internet. They are given incentives to encourage them to ask their friends and others in care homes and elsewhere to help them to access the internet. I admit that the only government service that I have yet used online is renewing my driving licence. I understand that the most complex procedure that you can currently do entirely online is the enduring power of attorney, which I suspect one needs younger people to help with.

Baroness Wheatcroft: My Lords, instead of a subsidised TV licence or free television licence for the elderly, might not subsidised broadband be a good idea?

Lord Wallace of Saltaire: My Lords, I had better take that one away and think about it.

Lord Wright of Richmond: My Lords, is the Minister aware—I doubt whether he is yet—that one way to acquire digital skills is to have as many grandchildren as possible?

Lord Wallace of Saltaire: Yes. I have also discovered that one of the ways to go backwards in digital skills is for your son to emigrate. You cannot then ask him to help in the middle of the night.

Lord Reid of Cardowan: My Lords, the disconcerting element of the Minister's Answer to the noble Baroness in the first case was that this is at an early stage. We are now decades into the internet. We are at least a decade on from envisaging digital services. Whether it is a matter of the social justice of excluding people who cannot use this, of hygiene and security on the internet or, indeed, of the chronic shortage of skills that we have as regards cyber for the future, will the Minister reassure us that, while he may be at an early stage in this process, rapid progress will be made? I declare an interest as a twice-over grandfather.

Lord Wallace of Saltaire: My Lords, things are actually moving quite fast. This is not simply something that central government are attempting to impose. I am encouraged by how much is being done at the local level by voluntary organisations and by partnerships between the public and the private sectors. The assisted digital scheme is intended to pull a number of these together and make sure that they are encouraged to help precisely in those areas of the country where digital skills are least well developed. The speed at which people are moving over to digital as mobile smartphones expand is very rapid.

Lord Avebury: My Lords, I am sure my noble friend is aware that according to the Office for National Statistics, 3.8 million disabled people have never used the internet. How are those people going to claim universal credit when the applications have to be made online? If they all go to the centres that he mentioned, will they not be completely overwhelmed?

Lord Wallace of Saltaire: My Lords, that is precisely what the assisted digital and digital inclusion schemes are intended to deal with. They encourage people to learn how to use the internet themselves and, where they find it difficult to do so, to assist them and advise them on how to gain the access they need.

Lord Stevenson of Balmacara: In the last quarterly report of the GDS, the figure of 20% of the population needing some sort of assistance is quoted. I make that about 10 million people. Will the Minister comment on the fact that in the recent report on the rural broadband programme, the chairman of the Public Accounts Committee said that only 9 of 44 locally managed programmes are expected to meet the 90% superfast broadband coverage target? The programme now will not be delivered until March 2017—nearly two years late. What is plan B?

Lord Wallace of Saltaire: My Lords, things are actually changing very rapidly. I am fed up in Saltaire with the number of letters Virgin has put through my door telling me that it has now wired the entire village. The speed at which superfast broadband is being expanded is very rapid. This is not a matter simply for the Government. One of the things that worries me about the current statistics of where the Government need to catch up is that 60% of the population have shopped online and continue to shop online but less than 30% have accessed government services online. That is where we hope to catch up.

Highway and Railway (Nationally Significant Infrastructure Project) Order 2013

Public Bodies (Abolition of BRB (Residuary) Limited) Order 2013

Motions to Approve

3.15 pm

Moved by ***Earl Attlee***

That the draft order laid before the House on 15 and 16 May be approved.

Relevant documents: 3rd Report from the Secondary Legislation Scrutiny Committee, 2nd Report from the Joint Committee on Statutory Instruments, considered in Grand Committee on 10 July

Motions agreed.

Supply and Appropriation (Main Estimates) Bill

Second Reading (and remaining stages)

3.15 pm

Moved by ***Lord Newby***

That the Bill be read a second time.

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

Marriage (Same Sex Couples) Bill

Third Reading

3.16 pm

Baroness Anelay of St Johns: My Lords, this is a procedural matter, which is why I have leapt to my feet in advance of my noble friend Lady Stowell. I have it in command from Her Majesty the Queen to acquaint the House that Her Majesty, having been informed of the purport of the Marriage (Same Sex Couples) Bill, has consented to place her interests, so far as they are affected by the Bill, at the disposal of Parliament for the purposes of the Bill.

Amendment 1

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

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

"Survivor benefits under occupational pension schemes

(1) The Secretary of State must arrange for a review of the following matters relating to occupational pension schemes—

(a) relevant differences in survivor benefits;

(b) the costs, and other effects, of securing that relevant differences in survivor benefits are eliminated by the equalisation of survivor benefits.

(2) For the purposes of this section, each of the following are relevant differences in survivor benefits—

(a) differences between—

(i) same sex survivor benefits, and

(ii) opposite sex survivor benefits provided to widows;

(b) differences between—

(i) same sex survivor benefits, and

(ii) opposite sex survivor benefits provided to widowers;

(c) differences between—

(i) opposite sex survivor benefits provided to widows, and

(ii) opposite sex survivor benefits provided to widowers.

(3) The review must, in particular, consider these issues—

(a) the extent to which same sex survivor benefits are provided in reliance on paragraph 18 of Schedule 9 to the Equality Act 2010;

(b) the extent to which—

(i) same sex survivor benefits, and

(ii) opposite sex survivor benefits,

are calculated by reference to different periods of pensionable service.

(4) The arrangements made by the Secretary of State must provide for the person or persons conducting the review to consult such other persons as the Secretary of State considers appropriate.

(5) The Secretary of State must arrange for a report on the outcome of the review to be produced and published before 1 July 2014.

(6) If the Secretary of State, having considered the outcome of the review, thinks that the law of England and Wales and Scotland should be changed for the purpose of eliminating or reducing relevant differences in survivor benefits, the Secretary of State may, by order, make such provision as the Secretary of State considers appropriate for that purpose.

(7) An order under subsection (6) may amend—

(a) England and Wales legislation;

(b) Scottish legislation.

(8) In this section—

"occupational pension scheme" has the same meaning as in the Pension Schemes Act 1993 (see section 1 of that Act);

"opposite sex survivor benefits" means survivor benefits provided to surviving spouses of marriages of opposite sex couples;

"same sex survivor benefits" means survivor benefits provided to—

(a) surviving civil partners, and

(b) surviving spouses of marriages of same sex couples;

"survivor benefits" means survivor benefits provided under occupational pension schemes."

Baroness Stowell of Beeston: My Lords, I will speak also to Amendments 2 to 5, on the subject of occupational pension benefits. I am grateful to my noble friend Lord Lester, the noble Lord, Lord Alli, and the noble Baroness, Lady Royall, for adding their names to this group of amendments.

The Government have listened carefully and understand the concern that has been expressed that same-sex married couples will be in a different position from opposite-sex married couples as regards occupational pension benefits. The effect of the difference in treatment, which is permitted under the exception in Schedule 9 to the Equality Act 2010, is that currently civil partners and, by virtue of the provision made in Schedule 4 to this Bill, people married to someone of the same sex may not benefit from their civil partner or spouse's pensionable service prior to 2005 in respect of any survivor benefit payable on the death of their civil partner or spouse.

We discussed this issue at some length in Committee and on Report, when we had a full debate on Amendments 84 and 84A, tabled by the noble Lord, Lord Alli. I am grateful to him and other noble Lords for highlighting this important issue and for engaging in constructive discussions during the passage of the Bill, which have led us to bring forward this group of amendments.

I will begin by making clear that we are talking here about which period during which contributions were actually made to a pension scheme will be taken into account when calculating survivor benefits on the death of the pension scheme member. Therefore, this issue does not affect people whose pensionable service began in 2005 or later. For those whose pensionable service began prior to 2005, the concern is that contributions that they have made will not benefit their partner on their death. I should also make clear that if the Government were confident that equalising these benefits was straightforward and sustainable, we would be happy to support a move towards equalisation. But as a matter of principle, and as I have explained previously, successive Governments have avoided imposing retrospective costs on pension schemes, particularly private sector pension schemes, which have not been taken into consideration in their funding assumptions.

It would be irresponsible of any Government to commit themselves to imposing potentially significant costs on businesses and the taxpayer without first undertaking an assessment of all the implications and knock-on effects, and assessing the scale of the costs involved. This group of amendments therefore requires the Government to arrange a review of the differences in survivor benefits in occupational pension schemes between opposite-sex couples and same-sex couples in legal relationships, both marriage and civil partnership. It will look at the issue in the round and will include looking specifically at the effect of eliminating differences in treatment because of sexual orientation in terms of survivor benefits between people married to someone of the opposite sex and people married to someone of the same sex. I can therefore assure the House that the review will include an exploration of the issue which is the focus of the concern of the noble Lord, Lord Alli.

As I have said, we must also look at the full costs and implications of any change. This means looking at the effect of equalisation across the board, because any changes made for one group could have significant wider implications. The review will therefore also consider the differences in treatment between widows and widowers of marriages of opposite-sex couples and the impact of removing the current exception permitting these gender-based differences of treatment provided by Section 67 of the Equality Act. It is important to emphasise, however, that these existing gender-based differences in treatment for widows and widowers in relation to survivor benefits arise from changes that have been made over time as a result of societal change. These longstanding differences reflect the historical fact that in the past many women were not economically active and relied on their husbands for their pension. These differences are therefore not consequences of the measures in the Bill, but it is important that the review considers all the interdependencies between the arrangements for different groups in occupational pension schemes in the round.

It is also important that interested parties are consulted and that all relevant voices are heard. The review will also therefore include consultation with those interested parties that the Secretary of State considers appropriate. This point was raised by my noble friend Lord Higgins. I can assure him and the House that consultation will include, for example, pension scheme trustees and industry bodies, as well as organisations representing the interests of lesbian and gay employees.

Following this comprehensive review, the amendments require the Secretary of State to publish a report of the outcome before 1 July 2014. The amendment also includes an order-making power. This ensures that if on consideration of the outcome of the review the Secretary of State thinks that the law needs to be changed in order to reduce or eliminate differences between survivor benefits, this can be achieved through secondary legislation, subject to the affirmative procedure.

I hope that these amendments reassure the House that we have listened to the strength of feeling on this issue and have responded in good faith with a sensible and measured way forward. The Government's amendments will ensure that if we were to make any changes to the existing arrangements for differences in survivor benefits we would do so with an understanding of the full implications of such changes and of the potential costs both to schemes and to the taxpayer. I beg to move.

Lord Alli: My Lords, I thank the Minister and my noble friend Lady Royall of Blaisdon for making this amendment possible. I am glad that the Government will re-look at this issue and that if they can they will change the law.

This is also my last opportunity to speak on the Bill. I want to say thank you not just to the Front Benches on both sides of the House but to the House. I have been truly humbled to have been part of the Bill in this place. This week will mark the 15th anniversary of my entry into your Lordships' House. As a gay man, over those 15 years you have changed my life. You have given me dignity where there was sometimes fear, you have given me hope where there was often darkness and you have given me equality where there was sometimes prejudice. Those who want radically to reform this place come with their plans. Let me say this to them: witness this day; witness this Bill; judge us on the creation of the liberties that we protect and extend.

This is a special place and I am proud to have figured in it. My life and the lives of many others will be better today than they were yesterday, and I thank the House for that.

Lord Lester of Herne Hill: My Lords, I am glad that I put my name to these amendments. I add my support to the Minister for the wisdom of the amendments. It is an open-ended consultation that is not prejudged, it is time-limited so there will not be undue delay, and if there are changes it will be subject to affirmative procedure, which means that Parliament will be able to be properly consulted, as the public and all the interested groups will have been.

[Lord Lester of Herne Hill]

To add a further point, if change is brought about it will avoid the need for further litigation that could finish up in the European Court of Human Rights, as I read its case law, because if there is to be change it will remove a source of discrimination that, it could be strongly argued, is not compatible with convention rights. For all those reasons, I am very glad to support this.

The noble Lord, Lord Alli, has described me in the past as a lone ranger, but I was not sure that that was a compliment. I sit among my Liberal Democrat tribe not as a lone ranger; we are full of support for that team. I should say, though others will also say it from these Benches, that we are very proud of the fact that we were the first to think of civil partnership, to do civil partnership in a Private Member's Bill and then to support the admirable Equality Act, so I do not think that I am a lone ranger. Anyhow, I do not watch cowboy films because I am too frightened of what will happen to the horses of the Indians.

I join in the tributes to the Minister and her extremely skilled team. Part of that team was responsible for the Equality Act 2010, which I have described as the best civil rights legislation in the world, and that I believe to be the case. The Minister has had to deal with the Bill in difficult circumstances; there are some in the House who are strongly opposed to it. However, the way in which amendments have been considered and debated across the House honestly and transparently has been extremely important, and I have learnt a great deal from listening to those debates.

I joined the House 20 years ago and I can tell those who are a bit younger that it would have been quite inconceivable for the House to have been able to approve this measure then. It would have been fairly impossible 15 years ago. What has changed for the better has been the modernisation of this House through appointments, and I pay tribute to the previous Government for the appointments that they made that I think have secured a House that is truly countermajoritarian and truly concerned with individual rights and with protecting minorities against the abuse of powers by the tyranny of the majority.

Lord Rowlands: My Lords, I rise to make a brief contribution—my one and only contribution to the Bill—because listening to the debates and reading the correspondence has brought vivid memories back to me of voting at 4.27 am, 46 years ago this month, by 99 votes to 14 for Mr Leo Abse's Sexual Offences Act decriminalising homosexuality. I was a 27 year-old Member of Parliament who had only been elected the year before, totally unexpectedly so because I was not expected to win a Conservative stronghold. That brief political experience did not prepare me for the vehemence of the reaction to my stance in that year. I have never since come across anything quite like the level of abuse and vehemence that I received in certain quarters of the constituency because of my support for that Bill. How could I possibly legitimise such horrid, heinous and sinful practices? The church, at that time, took rather a curious position on the Bill. It kind of supported it because it could help in the mission to save the sinful souls of homosexuals. The Bishop of London of the time said that it would allow,

"the reformation and recovery … of those who have become the victims of homosexual practices".—[*Official Report*, 13/7/67; col. 1291.]

I do not know how well that mission has succeeded since.

3.30 pm

I have alluded to this past experience for two reasons. First, I have been impressed and pleased by how much more measured, more sensible and more mature a debate we have had this time on such sensitive issues as opposed to way back in 1967. It shows that society itself has matured and, I believe, become more capable of handling such issues in a sensitive and helpful manner. Nevertheless, passions and fears have been aroused by the Bill. Therefore, the second reason why I have referred to this past experience is that, in such situations, I have always found that a bit of historical perspective is helpful. Has anyone ever tried to repeal that heinous, horrible Bill of 1967? No. Did all the dire consequences, which my constituents at that time said would happen to society if we supported the Bill, come to pass? I do not think so. Therefore, I believe that, with the passage of time, we will also find with this Bill that some of the fears that have been expressed will prove unfounded, as they were after 1967.

In my personal relations, I am as old fashioned and strait laced as can be. I had a 35-year marriage to one woman until death did us part, so I have had the experience and joy of a long and happy marriage. I do not believe that I should deprive gay people of that same opportunity. It is about equality before the law. As I said, the vote to which I referred earlier took place at the uncivilised time of 4.27 am. We can support the Third Reading of this Bill at a civilised time because the Bill itself is civilising.

Lord Higgins: My Lords, I join other noble Lords in congratulating my noble friend the Minister on the Front Bench on the way in which she has handled this Bill throughout. Indeed, I join all those who expressed appreciation to the noble Lord, Lord Alli, and others who have carried on the debate in such an eloquent and satisfactory manner. I am particularly grateful to the Minister for saying that the review will take into account the position of pension fund trustees and other beneficiaries in ensuring that equality is maintained. I would ask particularly whether the position will be protected so that those in a same-sex marriage do not gain access to a closed pension scheme in a way that would prevent members of the company's other scheme entering it. Perhaps that point might be taken into account by the review. Can my noble friend say what the composition of the review is to be? I am at rather a loss to understand what interests of Her Majesty are involved in this; that came straight out of the blue. Can my noble friend clarify that particular point?

Finally, I am glad that the order resulting from this review is to be subject to a resolution so that the House will be able to debate the result of the review without having to resort to a prayer. Overall, I think that we have made significant progress. I still have grave reservations about the position of registrars and so on, which I understand was a whipped vote on the

other side. In any event, on this particular aspect of the Bill, the Minister has certainly done an excellent job and I am very grateful to her.

The Lord Bishop of Norwich: My Lords, I support this group of amendments. A review of the benefits accruing to all survivors under occupational pension schemes is both desirable and necessary. The principle of equity under the law for those whom the law holds to have the same status in relation to the deceased is a sound one. Hard-pressed pension schemes must be tempted to limit benefits, and the complexity of some schemes may hide inequity, so this principle is clear and just and I support it. Indeed, the Church of England pension scheme already treats surviving civil partners in precisely the same way as widows and widowers.

There is a wider reason for supporting these amendments. It is no secret that the majority of Christian churches and other world faiths do not believe that same-sex marriage accords with their understanding of marriage itself. However, many of us, including on these Benches, welcome the social and legal recognition of same-sex partnerships and believe that our society is a better and healthier one for such recognition. That is why I support this group of amendments. This point has sometimes been obscured in public commentary on what has been taking place here, but not in the debates in your Lordships' House. The courtesy and clarity with which your Lordships have listened to each other represent our very best traditions, and I echo all that has already been said in this brief debate.

I, too, thank the Minister for her work and the Government for accommodating the needs of the Church of England and other faith traditions, and for wanting to do so. That has also been a characteristic of this House as the Bill has been debated. While the Bill is necessarily complex as a result of meeting many needs—and we are making it a bit more complex again—it will serve very well both its supporters and those who are still unconvinced about it, and that is a signal achievement.

Baroness Royall of Blaisdon: My Lords, I was very pleased to add my name to this group of amendments. I thank the Government for listening and recognising that action should be taken in order to get rid of this last inequality, which in my view is an anomaly. However, it is of course right that consultation, a review and an assessment should be undertaken before any final action is taken. I especially thank the Minister, who steered through the discussions on the compromise with her usual aplomb, skill and understanding. I am glad that we can all agree that this is the best way forward.

Lord Elton: Before the noble Baroness sits down, since there is no opportunity for a Back-Bencher to join in after that, and she sprang rather quickly to her feet, I wish to say that I welcomed the attempt to produce equality in this aspect of the Bill at each stage and that I am particularly glad to support it now. Perhaps it is best to pass over the rest of the debate we have heard.

Baroness Stowell of Beeston: My Lords, I am very grateful to all noble Lords who have spoken in this debate and for their support for these amendments. I will respond to some of the questions that were put by my noble friend Lord Higgins. He asked whether those who are currently excluded from a defined benefit scheme would not get access to such a scheme to a greater advancement than anyone else as a result of this review. I can assure him that that is not the case. The purpose of the review is purely to look at the contributions that people made before 2005. The noble Lord asked about the composition of the review. We will publish terms of reference in due course, and at that time we will be able to offer a little more detail.

As to the role of Her Majesty the Queen and the comments of my noble friend Lady Anelay before I moved Third Reading, I do not have a comprehensive response to that question except to say that that was just a formality that is sometimes necessary on the government Chief Whip's part before a Bill passes on to the Commons. It is all to do with various, specific interests that Her Majesty may have in a piece of legislation. In no way does it pre-empt proper process or the granting of Royal Assent. It is a pure formality and there is nothing unusual in it.

I will respond more broadly to this debate and to those that we have had on the Bill in your Lordships' House over the past few weeks. At Second Reading, I urged the House to ensure that the protections that allow the church and other faiths to maintain their legitimate belief that marriage is only between a man and a woman should work properly. I also said that this House should debate and scrutinise whether the Bill protects freedom of speech. Your Lordships have done that, and I am grateful to all who have contributed. Those of us who have supported the Bill in principle, and those who have been concerned about protections for those who did not, have together made this an even better Bill.

While the amendments we have made were all tabled by the Government, they have all been inspired by your Lordships and by the debates we have had in this House or through the work done in its committees, particularly the Delegated Powers and Regulatory Reform Committee. During the passage of the Bill through both Houses, the Government have made 23 substantial amendments, 17 of them while the Bill has been in this House. The most significant include the reviews to which we are committed—on civil partnerships, humanist marriages and the equalisation of survivor benefits for same-sex and opposite-sex married couples—as well as the amendment to the Public Order Act, which is a significant protection for freedom of speech.

We have also made amendments on religious protections, in particular one that clarifies the word "compel" in Clause 2. Religious faiths, notably the Catholic Church and others who are neither the Church of England nor the Church in Wales, and who did not wish to opt in to marrying same-sex couples, wanted us to strengthen further the clause in the Bill that states that a person may not be compelled to conduct a marriage of a same-sex couple. This matter was also debated in the Commons and the movers of the amendment there were defeated by 321 votes to 163.

[Baroness Stowell of Beeston]
Even though the will of the Commons was clear on this point, the Government said that they remained open-minded and would continue to listen. We did so, and were persuaded to come forward with our own amendment on Report. The Bill is now clearer, and says:

"A person may not be compelled by any means (including by the enforcement of a contract or a statutory or other legal requirement)".

I was pleased that the noble Lord, Lord Brennan, whom noble Lords will remember was critical of the Bill at Second Reading, commended the amendment, saying that it dealt with concerns about public functions comprehensively. He said:

"I cannot remember seeing in a statute—certainly not in one of this kind—the words 'by any means'. That is an all-embracing, protective phrase and I commend the Government doubly for such a courageous use of language to achieve one of the protections that they said they wanted to achieve: institutional independence".—[*Official Report,* 8/7/13; col. 105.]

Lord Higgins: I am sorry to interrupt, but is it not the case that registrars will effectively be compelled, even if they have conscientious objections, to marry same-sex couples?

Baroness Stowell of Beeston: The amendments to which I am referring concern religious protection. The point that was made during our debate on registrars was that they are public servants, carrying out a public function, and are therefore not in the same position as people of faith as to the requirements if they are conducting a marriage in their own church. They are employed to do a job as public servants.

Our debates have provided evidence to support something else I said at Second Reading. It is possible for us to allow in law something that not everyone agrees with, and to respect our differences of view. In particular, I note the comments of the noble Lord, Lord Rowlands, about the contrast between our debates and those of the past on previous gay rights legislation. I note, too, what the right reverend Prelate the Bishop of Norwich said when he paid tribute to the way in which we have debated the Bill in your Lordships' House.

3.45 pm

I thank everyone who contributed to our debates during the Bill's various stages, whatever arguments they advanced. The fact that we have debated and scrutinised the Bill carefully is what matters. I am particularly grateful to the range of colleagues on my Conservative Back Benches who have provided me with much guidance and wise counsel. There are too many of them to mention. Noble Lords should not be fooled by the lack of pink carnations on my Benches.

I hope that the House will indulge me in putting on record—not to make a party-political point but to record an important fact—that in five out of six Divisions in your Lordships' House, more Conservative Peers voted in support of the Bill than against it. I am aware that that did not happen—my Benches were evenly split—in the Division on registrars that my noble friend Lord Higgins has just mentioned. I am hugely proud of and grateful for that. We do not go in for emblems on these Benches, but many of us on this side of the House very much support the Bill. I pay particular tribute to one of my noble friends for helping me so much over the past few weeks. Without her support, my job would have been so much harder. She is my noble friend Lady Noakes.

As always, I have enjoyed working closely with my noble and learned friend Lord Wallace of Tankerness, and with my noble friend Lady Northover. All of us on the Front Bench have enjoyed fantastic support from a brilliant team of officials. I cannot name them all, but I mention in particular Melanie Field, Suki Lehrer, Wally Ford and Philip Bland. I will also give a shout-out to the special advisers who worked so hard in supporting us in this House. I will not say their names, but they know who they are.

I thank noble Lords from all four quarters of this Chamber who played a pivotal role in the passage of the Bill, in particular the right reverend Prelate the Bishop of Leicester, who is not in his place, and my noble friends Lady Barker and Lord Lester on the Lib Dem Benches. I was very pleased that my noble friend Lord Lester contributed to the debate and reminded noble Lords how much he has done to advance civil rights over many decades. I pay tribute to many noble Lords on the Cross Benches, including the noble Lord, Lord Pannick. Also, while we have been on opposing sides, I pay tribute to the noble Lord, Lord Dear, and his colleagues for their commitment to their cause.

Finally, I pay tribute to the Labour Benches. It is often said that politicians should try harder to work together for the greater good. On this important, historic piece of legislation, I am proud to say that that is what the government and the opposition Front Benches did. It has been a real pleasure over the past few months to work with the noble Baronesses, Lady Royall and Lady Thornton. It was characteristic of the noble Baroness to pay me such a generous tribute, and I am grateful to her. I have great respect for both noble Baronesses and will always be hugely grateful to them for their full support during the passage of the Bill. Although we will not agree to the same extent on all legislation that comes before the House in future, through the Bill I believe that we have strengthened our mutual understanding and personal trust. I am sure that that will be of great benefit to the work of the House.

I cannot pay tribute to the Labour Benches without mentioning the noble Lord, Lord Alli, who today gave a very moving speech. The other day, in a meeting with me, he declared in frustration at one point when I was disagreeing with him about a request he was putting forward, "But I am a gay rights campaigner". Never was a truer word said, and, based on his record of achievements, he is undoubtedly one of the—if not the—very best. He has been a very active participant in the passage of the Bill and I am grateful to him.

Unlike the noble Lord, Lord Alli, I cannot claim to be a gay rights campaigner, but I am a firm believer in justice and fairness. My belief comes from two guiding principles that my parents taught me: that you are as good as anyone who thinks that they are better than

you, and that you should always stand up for anyone who is treated worse than everyone else. Therefore, it has been a privilege to be part of a Bill that puts right something that is wrong: namely, the exclusion of same-sex couples from the institution of marriage. I am delighted that, very soon, it will be possible for gay couples to marry. They will be able to affirm publicly their commitment to each other, and accept all the responsibility and joy that comes with it, just like any other couple.

I say to any noble Lord who remains concerned that some gay couples will not take seriously the responsibility of marriage that it is likely that some will not. However, they will be no bigger in number than the small minority of straight couples who sadly end up disappointing each other and their families. Most importantly, we should celebrate and congratulate every gay couple who embarks on this special enterprise of shared endeavour in exactly the same way as we do straight couples, wishing them a long and happy life together, but knowing that that requires effort as well as the love and support of family and friends. As for me, I shall continue to wait for George Clooney before I give it a go myself.

I am very grateful to the many noble Lords who have paid tribute to my right honourable friend the Prime Minister for his leadership in bringing forward this important piece of legislation. I do not think it is presumptuous for me to say on his behalf how grateful this coalition Government are for the support and challenge we have received from the Labour Front and Back Benches, the Cross Benches, the Bishops' Benches and my noble friends on both the Lib Dem and Conservative Back Benches.

As I said at Second Reading, the Bill is a force for good. It remains that and I am delighted to be sending it back to my right honourable friend the Secretary of State Maria Miller, scrutinised and improved yet further by the House of Lords. I hope very much that the other place accepts all the amendments we have made and that it soon receives Royal Assent and becomes a great Act for good by this Parliament.

Amendment 1 agreed.

Clause 17 : Orders and regulations

Amendment 2

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

2: Clause 17, page 14, line 26, at end insert—

"( ) an order under section (Survivor benefits under occupational pension schemes);"

Amendment 2 agreed.

Clause 19 : Extent

Amendment 3

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

3: Clause 19, page 17, line 3, leave out "and 15" and insert "to (Survivor benefits under occupational pension schemes)"

Amendment 3 agreed.

Clause 20 : Short title and commencemen

Amendment 4

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

4: Clause 20, page 17, line 21, after "15" insert "and (Survivor benefits under occupational pension schemes)"

Amendment 4 agreed.

In the Title

Amendment 5

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

5:In the Title, line 6, after "partnership" insert ", for the review of survivor benefits under occupational pension schemes"

Amendment 5 agreed.

Motion

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

That the Bill do now pass.

Lord Cormack: I understand that this is the time that one would make a brief contribution on this Motion. I am very sorry to be doing it now in a sense because my noble friend the Minister in effect wound up the proceedings on the Bill when she was answering the amendments. However, I was not to know that she was going to do that. I want to make a very brief speech and congratulate all those who have campaigned for this measure on their success. However, in doing that, I ask them to bear in mind that although this may be a day of unqualified rejoicing for them, many in our country, who by no stretch of the imagination could be called either homophobic or bigoted, are unhappy about this Bill. They are unhappy about it because it changes the structure of society by changing the definition of marriage.

I hope that all those who enter into marriage under its new definition will, indeed, live happily every after, but the sincerity of that wish in no sense prevents my saying to them, "I understand that you feel euphoric today but please have a thought for those who have different views and for the many, not just thousands but millions of people in this country, for whom marriage will always be equated with what remains in this Bill the Christian definition of marriage". I hope that in recognising that, they will also remember the great Churchillian motto: magnanimity in victory.

Those who support the Bill have won; there is no doubt about that. It would be churlish and ridiculous to pretend otherwise and I, for one, would never do so. I hope that the divisions in our society which I fear will not come to pass. For my part, I will do my best, in whatever way I can, to ensure that they do not. However, if we are to have a society that is not embittered, and bitterness is the most corrosive of all emotions, it is important that both sides of this argument recognise the validity of the other side. The noble Lord, Lord Alli, for whom I have developed a very real regard during these debates, is, indeed, a doughty campaigner and has every right to feel pleased with

[Baroness Stowell of Beeston]
the result of his campaign. However, I say to him, and through him, "Please remember the millions of decent people for whom this is not a day of rejoicing".

Lord Framlingham: My Lords, I, too, wanted to make a brief contribution, having sat through all the remaining stages and the Motion that the Bill do now pass. I am one who does not think that it should.

Today has the potential to be deeply sad for this House and for millions of people—children, parents, families, teachers, clergymen—indeed, anyone who believes in the traditional family unit and its fundamental role in the life and cohesion of our country. If this Bill in its present form becomes law, a large number of people with understandable aspirations will be given new freedoms and be made very happy. But surely it must be right and only fair that your Lordships' House should give some consideration to a much larger number of people, running into millions, whose lives will be less happy and whose concerns and problems will be increased by this legislation.

Have we got the balance right? I think not, particularly as the opportunity to adjust the balance was spurned by the Government's complete rejection of any meaningful amendments. Happiness won at the expense of other people's happiness is rarely trouble-free in the long term.

The questions that many are asking are: why now and why the haste? The simple truth is that the coalition Government have colluded with equal love campaigners and the European Court of Human Rights in bringing a case—an appeal—against our country's long-established and settled position on marriage. There was a suggestion—some would call it a threat—that if legislation were not brought forward by June this year then changes would be forced on us. The House of Lords Library tells me that as legislation is proceeding the case in the European Court of Human Rights will probably not now be pursued. What outrageous, behind-the-scenes arm twisting.

The result is that not one meaningful amendment has been accepted, not because none has been worth while but for the sake of entirely contrived deadlines, which suit campaigners in a hurry and a Government who want it off their plate well before the next general election. How cynical and how dangerous. Given the huge effect the Bill, if passed, will have on millions of people, what an abuse of the parliamentary system to put speed before truth. So many important issues causing great concern have been left unresolved and hanging in the air, such as the effect on teachers, faith schools, the issue of adultery, consummation, the effect on registrars, which has already been referred to, and the use of premises—issues touching the lives of thousands every day, not to mention the effect on marriage itself.

Those of us who have sat through all the stages of the Bill and have watched the Government knock down amendment after amendment have despaired at their intransigence. This House prides itself on being a revising Chamber. On this Bill it has been a bulldozer. We are being used to bulldoze through an ill thought through Bill, the ramifications of which the people have not begun to understand. All great issues are essentially very simple. We make them complicated when we do not want to face them or when we are anxious to hide their true meaning and purpose. This Bill is built entirely on pretence. It pretends that there is no difference between a man and a woman. From this deceit have sprung all the problems we have been wrestling with—problems we have failed to resolve and which will bedevil generations to come. How can we possibly give our blessing to legislation built on pretence?

To those noble Lords who simply voted for this Bill at Second Reading for constitutional reasons, to those who have come to understand during our scrutiny its far-reaching measures, to those who are dismayed at the lack of concern for the worries of millions of people by the rejection of all the amendments, to those who believe that rushed, ill thought through legislation is dangerous, and to those noble Lords who prefer scrutiny to bulldozing—I realise that I am asking too much at this late stage—I was going to plead with your Lordships to vote against this Third Reading to defend this House's integrity and to grant adequate time for Parliament and the people fully to understand what is going on and, I believe, to receive the thanks of millions of people.

4 pm

Lord Fowler: My Lords, in some humility, I say that I disagree with both my fellow Conservatives who have just spoken, and in particular with the last speech. I do that in the context of paying tribute to the very high standard of the debate that has taken place. I pay tribute to the noble Lord, Lord Dear, and his colleagues for the way it has been conducted.

It is never ever been our case—those of us who want reform—that opposition is homophobic. That is not remotely the case that we have been putting. There is a central division between us. When opponents of the Government's legislation have said, "Remember what people outside are saying", that goes two ways. We might remember also what many tens of thousands of gay and lesbian people outside are saying. It is important to them, as the noble Lord, Lord Alli, so movingly said, in personal terms. I am struck and touched by the numbers of people who have been in touch with me to say what an important decision this is. It is, of course, after years and years of discrimination. That is what makes their support so moving.

The second point is that it is important in another way. During the passage of the Bill, I have been, as it happens, to a range of countries where discrimination against gay and lesbian people is not only an underlying feeling, but it is set out either in legislation or in official attitudes of those countries. I think in particular of a country I am recently back from—Russia. I think of Ukraine and Uganda. Personally, I hope that the message of this House of Lords is that there is a better way of doing these things than the way that those countries are doing them. It is a plea for equality and for non-discrimination. That is the hope and the message that I hope goes out from this House. I believe that, very shortly, the Government will have done a great thing here and I congratulate them on it.

Lord Dear: My Lords, I start my brief but sincere comments by thanking very much the Minister for the compliments she just paid me. I am grateful to her. I

also thank all of those who have spoken on all sides of the House in the numerous debates that have taken place about the Bill, and especially those who supported me in the passage of the Bill through your Lordships' House. All of us from my side were more than a little surprised at the level of support that the Bill has attracted within the House. If one looks at the opinion polls taken outside among the general public, it runs at about 57% in favour of the Bill. The votes in your Lordships' House ran 20% or so ahead of that. I make no comment about that except that it surprises, and others will take considerable pleasure from that.

All I say, very sincerely, is that despite the serious doubts that some parts of our society harbour about the wisdom of the Bill, I—and I am sure I can speak on behalf of my supporters—fully recognise the parliamentary process and willingly accede to it. We all hope very sincerely that if passed by the House of Commons, the Bill will prove to be a success.

Baroness Farrington of Ribbleton: Earlier today in your Lordships' House, there was a reference to grandchildren being able to teach those of us who are grandparents about information technology. I have also found through listening to children out in the country that, unlike some of us from our generation, we are not actually changing what is happening in the country, we are recognising it. As a 12 year-old said to me, "What is the problem with that? Two people love each other". Our grandchildren's generation, and many of our children's generation, live in what the Japanese call the house of tomorrow. I thank all my colleagues around the House who have been involved in steering the Bill through, but in particular the Minister, who, if she does not get George Clooney, perhaps could be on her way to sainthood because of the patience she has shown during the passage of the Bill.

My only worry comes from my experience in the education service, where stories appear which say that a school is going to ban Christmas or going to do this or that. I am proud of this House for the trust it is putting in trustees, governors, local vicars, parents, communities and teachers through the passage of the Bill and make a plea to all concerned for when the stories start appearing, as they will. Fortunately, in August, which is known as the funny month, most schools are not sitting—with the exception, I believe, of those in Scotland—so the press stories will not start just yet. However, my plea to anybody who reads a critical story connected with the passage of the Bill, such as one saying, "We told you so" or that it is not working, is to remember the story of the local vicar in Lancashire who was castigated in the press for saying that you could not put "gran" on a monument in the churchyard because it was not serious enough. That turned out not to be true and the poor man spent the rest of his clergyman's life being castigated for something he had never done. When the stories start, as they will, please wait to hear the outcome of the due process and whether somebody is found guilty of something by the governors through appeals and the disciplinary procedure. Do not get caught out by the knee-jerk reaction that the media will try to create in certain circumstances. Let us make certain that this Bill is a success and that this House has done a good thing. Yes, there are people who do not want change—there are always people, of course, who do not want change—but we have recognised change and we should be proud of it.

Baroness Barker: My Lords, the passage of the Bill has been a remarkable thing. Having sat through every bit of it, I have to say that the discussions in your Lordships' House have been not just of the highest calibre but deeply thoughtful about the nature of the society that we wish to pass on to future generations; none more so than the contributions from the Bishops' Benches. The Bill represents a real sea change for gay people and for our society—a good one that heralds the start of new relationship between minority groups and faith groups. All those groups have an important part to play in building strong communities for the future and that is why we on these Benches have supported this Bill at every stage.

We have been helped enormously by the Front Bench team in dealing with some quite difficult, tricky and intricate issues. I say to the noble Lord, Lord Cormack, that, no, there is no room for triumphalism. However, he will perhaps allow some of us today to celebrate what for us is a really important step towards equality and equal treatment. There is no room for intolerance but this House should be very proud.

Baroness Thornton: My Lords, the custom at this stage of the Bill is for all of us to look at each other and congratulate ourselves on the piece of legislation that we are just about to sign off. Of course, I realise that not all noble Lords feel the same sense of satisfaction at a job well done that the Minister, other noble Lords who have supported the Bill and I feel at this moment. I regret that they are not sharing the sense of joy and happiness that some of us are experiencing. Certainly, if the London Gay Men's Chorus's tuneful offerings outside the House are anything to go by, very many others feel the same. Some of us, indeed, could not resist wearing pink carnations. However, I note that even the noble Lord, Lord Cormack, is somewhat resplendent in pink himself.

To noble Lords who opposed the Bill I say that you have tested the Bill to within an inch of its life, and for that I congratulate you. No one expected that getting the Bill through your Lordships' House would be a walk in the park, and I think that noble Lords have done their job as they see it with dedication and commitment.

There were moments at midnight when we were again discussing adultery when I thought we were never going to reach this point. Those moments were made all the more memorable by the description by the noble Baroness, Lady Stowell of Beeston, of what is adultery and what is not. I refer noble Lords to column 146, 8 July 2013, if they are in any doubt. I wish her well with George Clooney, and I myself do not think that he is anything like worthy of the noble Baroness.

I very sincerely hope that time will change the views of noble Lords who are still concerned about the Bill. I hope that the happiness the Bill will bring to thousands of same-sex couples will persuade everyone that, after all, Parliament was right in its huge majorities on free

[Baroness Thornton]
votes, which led us to where we are today. I hope that your own marriages will indeed come through this change unscathed and as whole as ever, and that marriage itself will actually be strengthened and deepened by the Bill.

We must recognise that when the Prime Minister, to whom I pay tribute for his steadfast support, my right honourable friend the leader of the Opposition, Ed Miliband, and the leader of the Liberal Democrats all speak in unity, then the issue has powerful friends. However, even with those powerful friends, free votes ran through the Bill on all the major votes, and were won all the way through with huge majorities.

I pay tribute to the Minister, the noble Baroness, Lady Stowell of Beeston, for the way in which she steered the Bill through the House. Patient, energetic and always ready to listen, she never lost her sense of humour or proportion. Ditto her helpmates, the noble Lord, Lord Wallace, and the noble Baroness, Lady Northover. Indeed, we worked together on this Bill, and I am glad of it. The Bill team were always helpful and friendly, and are to be congratulated on their very hard work. I know that the demands that were made on humanism, pensions and a host of other issues meant that they and the Ministers had to go back and persuade their colleagues in government that they needed to revisit or revise matters they thought already settled. I know how hard that is.

Across the House there has been remarkable work by groups of Back-Bench Peers, co-operating to win the free votes on the Bill. My noble friend Lord Alli has been remarkable; not only did all of us on the Labour side receive bulletins and information about what was going to happen and when votes were taking place, but he also organised some light entertainment for Labour colleagues. On Monday the actor Richard Wilson and last Wednesday evening Paul O'Grady, aka Lily Savage, joined us in Committee Room G. I thank them for their support and generosity. My noble friend Lord Alli has talked to everyone all the time, which I think helped the good humour and tolerance which characterised the debates even when we fiercely disagreed.

There are other Members one should thank. The noble Lord, Lord Harrison, and the noble Baroness, Lady Massey, fought the corner for humanist weddings. The noble Lady, Baroness Meacher, and the noble Lord, Lord Lester, helped to find a way through on humanist weddings. My noble friend Lady Gould explained with great clarity the issues faced by transsexual people, matters not yet resolved and to which we may return some time in the future, but not on this Bill. Many of my colleagues have been here all the way through. I thank you all.

I personally have been blessed with support and equal sharing, as it should be, by my noble friend Baroness Royall, who fitted the Bill in with her many other duties. I thank her. My noble friend Lord Tunnicliffe sat next to me all through the Bill, and kept us to time and calm while under duress. I also thank the back room: Bethany Gardiner-Smith from the Opposition Whips Office, whose research, political management and inspired amendment-drafting made many things possible.

4.15 pm

Across the House, the noble Baroness, Lady Barker, has been with us every single step of the way and played a blinder with her Lib Dem colleagues, whose voting record has been magnificent. I thank the noble Baronesses, Lady Noakes and Lady Jenkin, the noble and learned Lord, Lord Brown of Eaton-under-Heywood, and of course the noble Lord, Lord Pannick, from the Cross Bench, to whom I pay particular tribute. I treasure some contributions from other noble Lords: the noble Lords, Lord Foulkes and Lord Deben, my noble friend Lord Alli and the noble Baronesses, Lady Howarth and Lady Brinton. All their contributions bear re-reading.

We should not forget the contributions from the Bishops' Benches. The most reverend Primate the Archbishop of Canterbury made a very important speech at Second Reading. Many other right reverend Prelates have joined in the debates throughout, always with elegance and thoughtfulness. The meetings that we on this side have had with the right reverend Prelate the Bishop of Leicester and his colleagues have been helpful and always friendly. I cannot remember another Bill that has merited such attention from the Lords Spiritual.

Alongside us all, we have had the help and support of Stonewall and LGBT Labour, Conservative and Lib Dem. I also thank the British Humanist Association for its support. I particularly appreciated the tweets late at night. I was conscious that thousands of people were watching us all over the country. I sometimes felt like saying, "Get a life", and they were certainly puzzled by some of our customs, but they were willing the supporters of the Bill to keep going.

The same-sex marriage Bill is a historic Bill. I am proud to have led these Labour Benches during its passage and to have helped ensure its safe passage on to the statute book. I am proud that the House has done its job well and thoroughly.

Baroness Stowell of Beeston: My Lords, I am very grateful to the noble Baroness, Lady Thornton, for ensuring that everybody got a fair mention in tributes. Having spoken at some length at the end of the previous debate, I shall keep my remarks brief. I am sorry if my remarks then seemed to pre-empt a debate on Bill do now pass, but I was not sure whether there would be a debate on that and felt that there were some important things that I wanted to get on record, which is why I took the opportunity when I did.

I said at Second Reading, and have done so a couple of times since, that we all move at different paces when faced with change. I most certainly respect anyone who has a different view about whether couples of the same sex should be able to marry, and I would never seek to criticise anyone who disagrees with me on this point. I have been pleased to say repeatedly that the belief that marriage should be between only a man and a woman is legitimate; people are free to express that view; and the protections in the Bill ensure that religious freedoms cannot be called into question. That is so important. I am grateful to my noble friends for making the points that they did and for giving me the opportunity to restate that, because I cannot say it too often.

The amendments on which the House divided during the time that the Bill was in this House were not agreed, but I do not agree with my noble friends that no meaningful amendments have been made to the Bill while it has been here. I spoke at some length in responding to the previous debate about the changes that we have made, so I shall not go through them all again in detail. However, as I said, 23 substantial amendments have been made to the Bill—that does not include any consequential amendments. Seventeen of them have been made while the Bill has been in your Lordships' House. Even though amendments brought by other Peers have not been accepted by this House, the Government have brought forward amendments to the Public Order Act to ensure the protection of freedom of speech. As I have said previously, we have clarified issues around the word "compel", because we thought that it was possible to do that without introducing any other uncertainty in the Bill or diluting its principle. I am pleased that we were able to do that, and that it was received and accepted so graciously by those who sought those changes.

It is so important to say how much I respect all noble Lords and their views on this Bill. I believe that we have brought forward a Bill that is a force for good and that the change it brings about is right and reflects the change in society. However, there is no question whatever that anybody who disagrees with it should in any way feel that their views have not been properly taken into account during our debates. I said before that I wanted to see that it was possible to put something into law that not everyone agrees with, while respecting our differences of view. I think that this is what we have achieved. On that note, there is probably little more to say, except how grateful I am to all noble Lords for their contribution to the passage of this Bill.

Bill passed and returned to the Commons with amendments.

Local Audit and Accountability Bill [HL]

Report

4.20 pm

Clause 1 : Abolition of existing audit regime

Amendment 1

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

1*: Clause 1, page 1, line 10, at end insert "in particular the appointment of auditors either as provided in subsection (9) of section 7 or otherwise in accordance with section 7 and"

Lord McKenzie of Luton: My Lords, in moving the amendment, I will speak to the other amendments in this group as well. As noble Lords will doubtless recognise, Amendment 1 is a paving amendment and the substance is in Amendments 6 and 9. Amendment 9 is consequential on Amendment 6.

The proposition is straightforward, and we had understood there was consensus. Notwithstanding this, we have not seen a government amendment to give it effect. The amendments provide a route to securing a central procurement of auditors in the future. As we discussed on the first day in Committee, by the time the key provisions of this Bill come into force, it is expected that all the audit contracts with principal local bodies will be undertaken by private sector firms, under arrangements entered into with the Audit Commission. This will comprise some 800 principal authorities, including local authorities, NHS and police bodies, and so on.

The contracts—I think that there are 10 of them—run to March 2017, but can be extended for three years. When these contracts have run their course, the authorities will make their separate appointments, although there is flexibility for authorities to jointly procure, together with other bodies. It is generally accepted that the central procurement exercise undertaken by the Audit Commission has generated substantial savings for local bodies—some 40% reduction in fees—and had some, albeit limited, impact on broadening the diversification of provision in the audit market.

The Government's own impact assessment has recognised that individual audit procurement is unlikely to match central procurement in generating reduced fee levels. Research shows that market concentration in audit services leads to higher audit fees, and while there is a credible argument that individual procurement will act against market concentration, major providers in the market are large, economically powerful entities with resources to invest in tackling the new opportunities.

One risk is that the larger authorities will fare well in this, because they will be more attractive clients to the big firms. In practice, smaller authorities will end up with less choice, being the junior partners in joint appointments and perhaps missing out on the services of the larger firms or being unable to afford them. The Government will doubtless remind us that authorities can group together. They can, but there is no clear framework to support this. Indeed, there is no explanation, for example, of what happens if there is joint provision when a conflict develops between one of the authorities and the firm involved.

The amendments, particularly Amendment 9, which is at the core of it, adopts the approach already included in the Bill for potential central procurement for smaller authorities. It enables regulations to specify a person to appoint auditors with relevant powers relating to fees, et cetera. It especially encompasses the prospect of authorities being able to opt either in or out of the arrangements, which we know is a key requirement of the Minister. The Minister has expressed an appetite for facilitating ongoing central procurement, provided that it is not mandatory, and a hope to be able to return on Report with some ideas. Perhaps we can now hear what they are. We know that the Minister and officials have been having discussions with the LGA, but we do not necessarily think that arrangements run by it are the only, or, indeed, the best approach. If we are to preserve central procurement, we need the legislative basis to do that. That is what the amendments provide. I beg to move.

Lord Palmer of Childs Hill: My Lords, in Committee, my noble friend said that the Government would commit to amend the legislation to create a framework to support a voluntary national procurement exercise. When she replies, I would appreciate it if she could put some meat on that earlier commitment.

Dealing with the point made by the noble Lord, Lord McKenzie, if one was always looking in terms of

[Lord Palmer of Childs Hill]
cost savings, which seemed to be the main thrust of his speech, we would have almost the demise of all local authorities. It would be a case of, "Let us have it all done nationally and then we would save some money". We as a Government are committed to localisation. The idea that local authorities should be to a degree able to choose their auditor is part of that localisation. There was a feeling of despair in the noble Lord's comment about how local authorities would be less hard negotiators than the Audit Commission. I doubt whether that will be the case. Many local authorities would be very hard negotiators on their own behalf in fixing the audit fees, the level of audit taking place and how it will dovetail with the internal audit systems of the local authority. A local authority that has a good local internal audit system can probably negotiate much harder with the external auditors, because of its knowledge of its internal audit system, than the Audit Commission has in the past.

I believe that the amendments are unnecessary, and I would welcome and wait for my noble friend's comments on how the Government will keep the commitment that she made at an earlier stage of the Bill.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): My Lords, I thank the noble Lord, Lord McKenzie, for introducing the amendments so succinctly and clearly and my noble friend Lord Palmer for reminding me—although I am not sure that I made a total commitment—that I said that we would return to the matter.

Both noble Lords have laid out the situation very clearly. The proposal in the Bill is that local authorities should be able to purchase or contract for their own auditor. They can do that individually, in conjunction with another authority or in a group. That is about as wide as the Bill takes it. The noble Lord and the Local Government Association have made strong recommendations that we should consider further the current situation, which is that the Audit Commission has purchased the contract for all local authorities. We have made it clear that there must be optional arrangements about this. Local authorities must be able to get their local auditors in the way that they wish. However we accept—and did accept—that there was potential for wider procurement, with a procurement body such as the Audit Commission, which did not require local authorities to purchase from it, but could be used by local authorities if they wished. So we accept that there is potential for such arrangements.

I have asked departmental officials to work with the Local Government Association to clarify what arrangements it envisages might need to be made and to get the detail right for any amendments that we would propose elsewhere. The Government intend to make an amendment to the Bill in the Commons, which will allow arrangements for optional centralised procurement to be made in regulations. I am happy to keep noble Lords who are interested in this informed.

4.30 pm

I hope that noble Lords feel that we have fulfilled the discussions that we had at the last stage. While I cannot give details of the likely outcome at the moment—and, indeed, there might not be an outcome because I do not know how the discussions will go—the intention is that there should be an appropriate amendment in the Commons once suitable discussions have taken place.

I hope that, with those reassurances, the noble Lord feels able to withdraw the amendment.

Lord McKenzie of Luton: My Lords, I thank the Minister for her reply and the noble Lord, Lord Palmer, for his contribution to this short debate. I say to the noble Lord that I do not advance the proposition that all local authorities will not be hard negotiators. My point was that there could be a differentiation between the smaller authorities and the larger authorities. I am sure that the larger authorities will be well capable of looking after themselves—they prove that on a daily basis.

Localism and audit appointments within a regulatory framework are more complex issues than localism generally in the context of provision of services. Cost savings is one feature, but it seems to me, particularly in the current climate, that it is a very important feature of what we should be helping local authorities to achieve.

The Minister has in a sense reiterated what she said before. I do not honestly believe that that takes us any further forward. We have accepted that there should be a permissive, not a mandatory, regime. If that is where the Government are, I am not sure what is in this that cannot be accepted because it provides a route to set up exactly that sort of regime.

The Minister said that there was an intention to bring forward an amendment in the Commons. With respect, however, in the next breath—as I understood it—she said that that was not certain. I do not know whether the noble Baroness might be able to clarify that point for me before I conclude—it is fairly critical.

Baroness Hanham: My Lords, I want to make it clear that it is the Government's intention to see that the proposed arrangement is fulfilled, so that there might be wider procurement than there is at present. In order to do that, I am unable to say today that it will follow exactly these provisions because discussions need to take place. The Local Government Association in its briefing, as I am sure the noble Lord will have seen, is happy that that should be the situation. It is content to have those discussions and to see that an appropriate amendment is put forward in the Commons.

As a politician, one should never hedge. What I am told is that there will be an amendment. I should never have put any doubt in the noble Lord's mind about that. I hope that will help to clarify the situation and prevent the noble Lord feeling that he has to press this amendment, when I suggest that it is completely unnecessary.

Lord McKenzie of Luton: My Lords, again, I thank the Minister for that. Indeed, I was tempted to press this amendment but I take her assurance that an amendment will be brought forward in the Commons that will enable central procurement, but not on a mandatory basis. If that is the proposition we can take

from this discussion, that is as far as I can take this amendment today and accordingly I beg leave to withdraw.

Amendment 1 withdrawn.

Amendment 2

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

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

"(6) Before the commencement of this section, the Secretary of State must be satisfied that effective successor arrangements are in place or achievable for—

(a) the management of existing audit contracts entered into with the Audit Commission;

(b) the maintenance and updating of Value for Money profiles; and

(c) certification functions currently undertaken by the Audit Commission."

Lord McKenzie of Luton: My Lords, I will speak also to Amendment 3. The more we delve into this Bill, the clearer it becomes that the decision to close the Audit Commission was taken without a clue as to how some of its functions were to be carried out in the future or how some of the savings that it has driven could be maintained.

We have just discussed how a central procurement function might be preserved, and we will come on to discuss how the commission's efforts to prevent and detect maladministration and error can be carried out in the future. Amendment 2 focuses on three specific areas, which are,

"the management of existing audit contracts … the maintenance and updating of Value for Money profiles; and … certification functions currently undertaken by the Audit Commission".

It requires that robust processes are in place for these before the Audit Commission is closed. We have discussed these before and received assurance that the Government have these matters in their sights, but we are again sadly lacking in detail as to what is proposed.

As we discussed in Committee, the management of ongoing audit contracts is not a straightforward, passive matter. It requires the availability of certain powers that are currently available to the Audit Commission; for example, in relation to fee setting. Given the public interest in local public audit, any successor arrangements will need to ensure transparency in audit quality monitoring. The FRC is to monitor major audits and it is unclear what public reporting there will be on this. All other audits can be subject to cyclical monitoring by the supervisory bodies but there is no commitment yet to any public reporting on the results of this monitoring. Perhaps the Minister will tell us now what is proposed in this regard.

In Committee, the Minister told us that,

"we are giving consideration to the transfer of current Audit Commission tasks, including the value-for-money profiles".—[*Official Report*, 17/6/13; cols. GC 25-26.]

Now is the chance for the Minister to be a little more specific. The value-for-money profiles are widely used; there were some 9,000 visitors to the commission's website in the past financial year. They bring together data about the costs, performance and activity of local councils and fire authorities. The profiles show how organisations are spending resources, what services they perform and how these cost and performance levels compare between organisations and over time. The commission is enhancing the visibility of these profiles by presenting information about how spending and activity have changed over time, how councils' performance differs, and factors affecting variation in activity and cost. Can we be very clear on this: are these profiles to be maintained and, if so, how?

It is accepted that certification processes may diminish as grant funding streams are reformed and phased out but there will certainly be the need to deal with housing benefit funding before this is absorbed fully into universal credit. Can the Minister give us some assurance on just this one matter, if not the generality of the replaced certification regime?

We have so little hard information on these areas and the Bill is about to leave your Lordships' House. We should remember that it is actually three years since the decision to close the commission was announced. In these circumstances, requiring these matters to have been satisfactorily dealt with before the Audit Commission is closed seems the very least that we can do.

The same applies to being satisfied as to how the new audit regime is to be co-ordinated across government and how accounting officers will be entitled to obtain assurances on the effectiveness of financial management arrangements. There will be no organisation to publish the outputs from the audits of over £200 billion of public money. Accounting officers will need to continue to have access to analyse the outcomes of local work, and individual government departments will need arrangements to receive the outcome of audits. We are entitled to be assured that this is all in place before the commission disappears.

That is all that this amendment seeks to achieve, but it is very important. I beg to move.

Lord Palmer of Childs Hill: My Lords, the purpose of Amendments 2 and 6 is clearly to try to improve the transitional arrangements. It seems to be felt that we need a certain overprotection for transitional arrangements, but when private corporate bodies change their auditors and way of management, some transitional arrangement always has to take place. It works in a natural way, without the Secretary of State being involved in every item.

Amendment 2 inserts three paragraphs. The first deals with,

"the management of existing audit contracts entered into with the Audit Commission".

One of the main purposes of the Bill is to make the audits of the various local authorities much more the responsibility of the local authority. Its appointment of the auditor and dealings with the auditor, and the auditor's dealings with the authority, will become a more localised matter. However, because there are a limited number of audit firms, there will be a consistency in the types of audit operated.

The main point that the noble Lord spoke about was,

"the maintenance and updating of Value for Money profiles".

Value for money in the external audits of local authorities has been a very important and costly factor in terms of the time that the Audit Commission and private

[LORD PALMER OF CHILDS HILL]
firms of auditors have spent on those activities and how much they have charged for them. Two or three years ago, the value-for-money audits carried out by external auditors were more limited. There was no large-scale review of the use of reserves, assets and finance. Under the current arrangements, external auditors do not have to carry out a prescribed list of value-for-money exercises.

Currently, before the Bill, that situation is very much localised. There is a virtue in that localisation. Different firms of auditors will possibly take a different view on what is needed within that particular local authority, and that view will have an effect on the fees charged to that authority and on how much work needs to be done. As the years progress, it will be interesting to see how different local authorities have their value-for-money details published. We hope that all local authorities will publish these, and there may need to be some national gathering of that information for comparison purposes. However, that does not necessarily need to be in the Bill. Although I understand where the noble Lord is coming from on this, I think that it amounts to a little too much control which is not needed.

Baroness Hanham: My Lords, I thank my noble friend Lord Palmer for bringing some rationality into this particular aspect. I support him very much in reminding the House that this is an intention to bring to a local level the management of an extremely important part of local government's responsibilities, which is to have proper audited accounts, but to do it in a slightly different way from what has been done in the past, without the overall management of the Audit Commission but having to take into account the fact that these have to be properly done, whether they are done on the optional basis that we are talking about—having the wider procurement—or because they have taken account of having these on their own requirements.

4.45 pm

I understand the purpose of these amendments: to place a duty on the Secretary of State and ensure that appropriate arrangements are in place. My noble friend has made clear that he does not believe that this should be a responsibility of the Secretary of State, and nor do I, but I support the intent of the amendments. It is important that we plan for and implement a smooth transfer of the Audit Commission's functions, that we enable a workable and coherent audit regime and that we ensure that the future regime is able to give assurance to accounting officers. I assure noble Lords that we have a commitment to these issues. However, as I and my noble friend Lord Palmer have said, rather than the Secretary of State having responsibility for this, we do not believe that there should be a commitment on him to take this up.

We are working closely with the Audit Commission, the Financial Reporting Council, the National Audit Office and the Local Government Association to develop arrangements to support the transition from the current regime to the future local public audit framework. This includes an assessment of what tasks that are currently undertaken by the Audit Commission need to continue and, for those that do, options for which organisation should undertake them. Perhaps, if I may, I will take those issues in turn.

First, the noble Lord, Lord McKenzie, raised the issue of the Audit Commission's existing contracts, which will run until 2017. We discussed this in Committee, and I advised the Committee that an interim body or bodies will manage these contracts as the Audit Commission passes and any related functions following the abolition of the commission. We are now working with other partners to scope out the range of options, which includes transferring the contract management function to the Government, a sector-led body or other potentially suitable organisation, which might be a specific organisation set up to manage the two years of the contract. The Bill currently provides flexibility, therefore allowing these various transitional options to take effect. I assure noble Lords that officials are working on the detail, and while I know that the noble Lord would like it all cut and dried with regard to exactly what is happening, at the moment I cannot do that. I can say that consultations are taking place, again including the Audit Commission, with an interest in the form and function of the interim arrangements. We are not going to try to artificially limit the range of options at this stage, and we will be scrutinising what needs to be done to ensure that and to ensure that we put in place the most effective successor arrangements for this contract announcement. We all understand how important this is.

My officials are still engaged in discussions with the Audit Commission—I have said that a couple of times, but with all these the commission is closely involved—about the future of the value-for-money programmes, including the content, format and host organisation. The Treasury is also working with individual departments to ensure that transitional arrangements are developed for grants requiring certification following the closure of the Audit Commission. In advance of the abolition of the commission, several departments have agreed to move early to develop tripartite arrangements with individual authorities and their auditors. A number of other departments already certify their grants in these ways so, in these instances, departments as grant-paying bodies will manage the arrangements supported by guidance to ensure a consistent approach across local authorities.

As part of this work, the Audit Commission has offered to support departments moving towards these tripartite arrangements in what they will need to ensure that arrangements are robust. As is currently the case, departments will continue to ensure that these arrangements provide adequate assurance to their own accounting officers. I would like to provide an assurance that, on all these transitional matters, once again we will make sure that noble Lords in this House are kept abreast of what is being discussed.

Amendment 3 focuses on the co-ordination of the new regime and how accounting officers obtain assurance on the effectiveness of financial management arrangements. If we reflect for a moment on the current arrangements, local authorities are accountable for their own financial management and expenditure, and there is an existing system of local accountability.

This is set out in some detail in the accountability system statement for local government, which my department's accounting officer uses to provide assurance to Parliament. Audit forms only one small part of these wider arrangements and the Bill does not change the scope of audit, meaning that the assurance provided will be largely the same as at present, whoever it is provided by. Similarly, government departments, through their individual accounting officers, are accountable to Parliament, and they are required to demonstrate that their existing accountability systems are robust.

We are currently working with the National Audit Office to ensure that information from audit will still be available to the accounting officer at a national level to help provide assurance. I can assure noble Lords that this is definitely achievable, but in a similar way to the management of the commission's existing contracts. This requires further consideration. We are working through the intricacies and are on course for a timely resolution, which I hope the other place will have time to consider.

Appropriate provision will remain in place to ensure that a high quality of audit is maintained and that there is sufficient visibility of audit output information in the new regime. To this end, the Financial Reporting Council and professional accountancy bodies will oversee and regulate. The noble Lord specifically asked me about the regulation on monitoring of quality of audit. This will be overseen by the Financial Reporting Council, which will also regulate the work of the auditors and the monitoring of the quality of the audit. Arrangements will be put in place for health bodies because, as we have discussed in the past, their accounts are consolidated into the Department of Health's financial reports. All audit output information will continue to be available and will be published locally rather than centrally. It will be the responsibility of the local authorities.

I repeat my earlier assurances that it is the Government's intention to achieve the purpose of the amendments that the noble Lord has put down. However, we do not believe that placing duties on the Secretary of State is the most effective way of achieving it at this time. The noble Lord asked me about the certification of housing benefit for the Department for Work and Pensions. The Audit Commission will continue to provide the grant certification for 2014-15. Housing benefit continues to be complex. I may need to come back to the noble Lord on that because I cannot read my writing. While the commission can start the process of developing guidance for 2014-15, the anticipated closure of the commission in March 2015 means that subsequent work is required to complete this under the proposed interim arrangements. I think we are back where we started in that this matter is still under consideration, as are all the other matters.

I know that the noble Lord wants specific arrangements in place at present. However, as I said before, we cannot give those in this House. There will be further discussions in the other place relating the specific elements that the noble Lord has raised. That is not to say that I am not grateful to him for having done so. It is important that we put down the fact that work will carry on over the next few months so that we can come to conclusions about these arrangements. I hope that the noble Lord will feel able to accept my explanation, and I thank the noble Lord, Lord Palmer, for giving me some very rousing support.

Lord Christopher: My Lords, before the noble Baroness sits down, will she kindly explain a point on which I am very unclear? Some time before 2017, someone will have to decide whether the existing contracts are to be extended or not. My view is that they should be extended because they are cost-effective. Who will handle that, and who will deal with the situation that would arise if perhaps a small number of local authorities covered by a particular contract do not wish to renew while the remainder do?

Baroness Hanham: My Lords, the current contracts are due to last until 2017, and there will then be an interim arrangement between 2015 and 2017, as I have described. After 2017, unless for some reason it is decided universally to extend the contracts again en bloc—which is completely outside what we are talking about today, and it is probably unlikely—it is for the local authorities to make their own decisions about the contracts: where they want them to be, and with whom. Following 2017, within that interim period between 2015 and 2017, local authorities will have to decide what they will do and how to manage it.

Lord McKenzie of Luton: Again, I am grateful to the Minister for her response and to the noble Lord, Lord Palmer, for his challenges. I will start with the noble Lord. I sought to focus on the contracts that are in existence, not the subsequent regime, in which local authorities may or may not appoint their own auditors. However, there is a bundle of contracts, to which my noble friend Lord Christopher referred, which are ongoing at the moment but which will need management. That management is more than just a passive affair, so it needs to be put in place.

I thought that the arrangement about extension was that it would ultimately be a decision for the DCLG about its 10 bundles of different contracts—you do not necessarily have to make the same decision in respect of each of them. I say to the noble Lord, Lord Palmer, that I did not say that there should be some standardised approach to value-for-money issues. I sought to ensure that there was security of the value-for-money profiles that the Audit Commission currently produces—data that are available to all authorities and others as well—so that authorities are able to make their own judgments and undertake their own exercises, whatever they may be. After the Minister's response, this is the area I feel less confident about. We do not know from the reply whether they will be maintained, even broadly, in their current form, or whether they will be available as a valuable tool for local authorities and health bodies in the future.

It was not my intent to get the Secretary of State involved in all things. The purpose of the amendment is to require the Secretary of State to be assured that these matters are in place—not that the Secretary of State is operating them—by the time the Audit Commission closes. Once the Audit Commission goes, that will be a very clear break with the current situation. So far as the role of the FRC and supervisory bodies is concerned, I understand their role in that, but the key

[LORD MCKENZIE OF LUTON]
issue is on how transparent the result of their work will be. We do not yet have clarity on what will be the consequences of their auditing of audit work and what will happen to that. That was part of what I was inquiring about.

Perhaps the noble Baroness can first deal with that point about transparency of the FRC's supervisory activities or the supervisory bodies: what is likely to be in the public domain as a consequence of their work? It would be helpful if we could have an answer on that. I should also like some clarity on the value-for-money profiles. Is it intended that the data will still be collected, maintained and available to relevant bodies—whether in precisely the same form as now, or not? Is it intended that these profiles be available in the future, once the Audit Commission has closed? This is an important issue, so could the Minister give some further clarity on it?

Baroness Hanham: My Lords, I may need to write to the noble Lord on the detail of this. However, our understanding is that clarity and transparency will remain as they are at present, so that the Financial Reporting Council will have much the same monitoring role. Anything that it does in relation to councils and local audit will have to be as transparent as is necessary. I would prefer to write to the noble Lord, particularly on this issue, and to make sure that the information is put into the Library of the House.

Lord McKenzie of Luton: I am grateful to the Minister for that but perhaps it is time we stretched our legs. I beg leave to test the opinion of the House.

5 pm

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5.13 pm

Amendment 3 not moved.

Clause 2 : Relevant authorities

Amendment 4

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

4: Clause 2, page 2, line 26, at end insert—

"(7) Before promulgating a statutory instrument containing regulations or an order which would fall within section 40(7), the Secretary of State shall publish and consult with relevant persons on a draft thereof."

Lord McKenzie of Luton: My Lords, this is a rerun of the amendment we moved in Committee concerning hybridity. It was prompted by the report of the Delegated Powers and Regulatory Reform Committee which drew attention to Clause 47 of the Bill relating to regulations under Clause 2. Clause 2 enables the Secretary of State, by affirmative resolution, to include someone as a relevant authority and to make provisions about how the Bill affects them. This is the case even though the regulations might be a hybrid instrument, although Clause 47 requires it to be treated as not being a hybrid instrument. The Delegated Powers and Regulatory Reform Committee made it clear that if the hybrid instrument procedure is not to afford protection in cases of hybridity, there should be another form of protection—hence our amendment concerning publication and consultation.

In Committee, the Minister told us that instances of hybridity will be rare. Indeed, I do not think that we have yet had an example of one. There was, however, acknowledgment that, where they arose, there would be an especially compelling reason for the Government to consult. In response to the Delegated Powers and Regulatory Reform Committee, the Minister reiterated the Government's acceptance of the need to consult and promised an announcement on Report. We look forward to that announcement and, specifically, to hearing why the commitment should not be carried in the Bill. I beg to move.

5.15 pm

Lord Palmer of Childs Hill: My Lords, from these Benches we also look forward to the Minister giving that information. Although there is worth in

[Lord Palmer of Childs Hill]
the amendment, I wonder whether it needs to be in the Bill rather than being done by regulation at some stage in the future.

Baroness Hanham: My Lords, as the noble Lord said, I was sympathetic about his amendment in Committee. It would ensure that if the Government were to bring forward what might amount to a hybrid instrument under the powers in Clause 2, the bodies affected would be consulted before regulations were laid. This, indeed, would need to be through regulations. We do not expect that the need to bring forward regulations would be anything less than rare.

As I said in Committee, we recognise that in these cases there would be especially compelling reasons for the Government to consult. In our previous discussion I referred the noble Lord to our forthcoming response to the DPRRC's report. We have accepted the committee's point and informed it that we would announce our commitment, which I am doing, and consult affected bodies at Report. We confirmed that this will not entail the need for any amendment to the Bill. I am happy to give that commitment today, and to consult relevant persons on a draft of any statutory instrument containing regulations or an order falling under Clause 40(7) of the Bill. Any such regulation would be subject to the affirmative process, so Parliament would have the opportunity to scrutinise it. In the light of that commitment, I hope that the noble Lord will feel that we have satisfied his requirements.

Lord McKenzie of Luton: I am grateful to the Minister for that commitment which is very clear. I would still prefer to see it in the Bill, but I will not press that point. The answer is clear and I beg leave to withdraw the amendment.

Amendment 4 withdrawn.

Clause 4 : General requirements for audit

Amendment 5

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

5: Clause 4, page 3, line 26, leave out "by that authority"

Lord McKenzie of Luton: This is a return, briefly I expect, to a drafting point. Under Clause 4 there is a requirement that,

"a relevant authority … must be audited … in accordance with this Act and … by an auditor appointed by that authority in accordance with this Act".

The second requirement cannot be met before 2017 at the earliest when the appointments made by the Audit Commission come to an end. It could be three years later if any of these contracts are extended.

The concern is how the general requirements for audit provided for in the Bill can operate before local appointments are operative. I believe that we see eye to eye with the Government on the issue. The Minister's letter of 25 June states:

"Officials believe that when the provisions are commenced, we will be able to commence different provisions for different purposes and as a result, we will be able to avoid any of the unintended consequences you highlight".

I accept that there is flexibility on commencement of provisions but remain unclear as to how this would operate in the circumstances highlighted. Is it being contended, for example, that Clause 4(1)(a) could be commenced before Clause 4(1)(b)? It would be good to have some clarity on this issue before the Bill leaves your Lordships' House. I beg to move.

Lord Palmer of Childs Hill: My Lords, I would also welcome the Minister clarifying some issues, particularly if there is, indeed, a problem of a practical nature. At present, most local authorities are audited by a professional firm. A fairly small proportion is audited by the commission. Those audited by professional firms will be audited under the continuing contracts until 2017. The local authority will then have the ability to appoint a new auditor. This is what happens in the commercial world. One has an auditor, the auditor audits for a period—generally for the year, in this case for slightly longer—and then there is a new appointment. This is quite the natural way of things. I am not sure—and I hope that the Minister and the noble Lord, Lord McKenzie, will clarify this—why we need to have this because, in a practical sense of the word, auditors are there for a period, they finish their term of office and then they, or another auditor, are appointed. That is the natural way of things whatever we decide or do not decide in your Lordships' House.

Baroness Hanham: My Lords, first, I confirm that it is possible to introduce different parts of the Bill at different stages, and the order in the Bill can be switched around. I think the noble Lord asked whether Clause 4(2) could be introduced before Clause 4(1) and the answer is that it could—it is a case of whatever is convenient. The Bill introduces powers to commence different parts of the Bill at different times and to make savings on provisions relating to the Audit Commission Act 1998. Therefore, we would expect to commence this reference in line with the introduction of the local appointment, which I think we were discussing when the noble Lord, Lord Christopher, was here.

If the noble Lord wants to know our wider intention of how to manage the overall transition to the new audit framework, it may be helpful if I say a bit more about that. Our intent remains, as I said, to close the commission in spring 2015. The existing audit contracts will continue to run until 2017, but management of those will transfer to an interim body. We have discussed these over the three previous amendments. As the contracts will run until 2017, authorities will not need to make their own appointments until that stage, but they will have to have made those appointments so that there is a smooth transition between the contracts currently managed by the Audit Commission and whoever manages them subsequently, into the local authority's own regime. We therefore expect that much of Part 3 of the Bill, which deals with local appointment, will not be commenced until closer to 2016, which then gives them a year to do that. It will be 2016 when procurement of auditors for 2017 is likely to begin.

The current intention is that the new eligibility and regulatory framework and provisions on the conduct of audit will come into effect immediately following

the closure of the commission in 2015. It is our intention to make arrangements to enable us to do this under the powers in the Bill, subject to analysis of the transitional arrangements—again as we have discussed, there have to be transitional arrangements—that may arise.

Lord McKenzie of Luton: I missed the Minister's first point. Would she mind repeating the beginning of that sentence?

Baroness Hanham: It is our intention to make arrangements to enable us to do this under the powers in the Bill. Our current intention is that the new eligibility and regulatory framework and provisions on the conduct of audit will come into effect immediately following the closure of the commission in 2015. The provisions will then relate to whatever interim arrangements for the body are in place. I hope that that is sufficient clarification for the noble Lord to withdraw his amendment.

Lord McKenzie of Luton: I thank the Minister for her reply and the noble Lord, Lord Palmer, for his contribution. I say to the noble Lord, Lord Palmer, that my point was not about auditors and succession of auditors but on quite a narrow drafting point. One of the requirements in Clause 4 is that the audit must be undertaken,

"in accordance with this Act … by an auditor appointed by that authority".

Obviously, until 2017, the auditors will have been appointed by the Audit Commission, and the question is how the system works under those circumstances. I accept the broad point that matters can be introduced at different stages but I am still a little mystified as to how the new framework is to operate from 2015, so long as Clause 4(1)(b) is there—unless that is simply excluded from what is introduced in 2015. Perhaps I should read the record and we might have a further discussion on this in due course if necessary.

Lord Palmer of Childs Hill: Before the noble Lord, Lord McKenzie, sits down, I will just comment on the point about the appointment of the auditor by the Audit Commission. In practical terms, the Audit Commission currently suggests who the auditor should be—for example PricewaterhouseCoopers, or Grant Thornton, which has a large number of these audits. The local authority is the one that appoints the auditor, under its own constitution, although it accepts in practice the auditor that has been put forward by the Audit Commission—whether it is the Audit Commission itself or a professional firm. I would have to go back to the constitution but, as I understand it, the local authority has a constitutional duty to appoint an auditor, which it currently does on "the instructions" of the Audit Commission. However, the appointment cannot be foisted on a local authority, because it is a legal body in itself.

Lord McKenzie of Luton: My Lords, the noble Lord makes an interesting point but my understanding is that the contracts for the audits are with the Audit Commission not with the local authority. If the noble Lord is right, that in fact unlocks this particular conundrum: although it is not a contract organised by the Audit Commission, if it is nevertheless an appointment by the authority, then I think the problem goes away. With respect to the noble Lord, I do not think that is the position but we might just follow up on that. Having said all that, I beg leave to withdraw the amendment.

Amendment 5 withdrawn.

Clause 7 : Appointment of local auditor

The Deputy Speaker (Lord Geddes): My Lords, before calling Amendment 6, I should point out that there is a mistake on the Marshalled List. It should read: "Page 5, line 28".

Amendment 6 not moved.

Amendment 7

Moved by ***Baroness Hanham***

7: Clause 7, page 6, line 7, after "jointly" insert "in relation to some or all parts of the accounts;"

Baroness Hanham: My Lords, in moving Amendment 7, I will also speak to Amendment 8, which between them make small changes to Clause 7. These amendments enable two or more auditors to be appointed to exercise jointly one or more functions and enable a different auditor to be appointed to act separately to undertake one or more functions. The noble Lord, Lord McKenzie, first raised this issue by tabling two amendments in Grand Committee, which would have enabled auditors appointed jointly to issue advisory notices or to seek judicial review either individually or jointly.

I said that we would consider the drafting of Clause 7 to check that it provides the desired level of flexibility for auditors to work jointly and individually. The two amendments that we are bringing forward are a result of those deliberations and give relevant authorities greater flexibility in the way in which they can appoint more than one auditor. Authorities will of course be able to appoint just one auditor. Alternatively, they will be able to appoint more than one: jointly, to exercise one or more functions; separately, to undertake different functions or different parts of the accounts; or some combination of those. We consider that it will very rarely be the case that authorities wish to appoint more than one auditor to act jointly throughout the whole audit. However, where they choose to do so, the auditors must act jointly. The clause already enabled auditors appointed separately to undertake some functions jointly if those functions overlapped, but it did not allow auditors to be appointed with the purpose of undertaking some functions jointly and others separately. I am grateful to the noble Lord for raising this matter. I hope that the amendment will enable a more flexible approach, and I beg to move.

5.30 pm

Lord McKenzie of Luton: My Lords, obviously we are content with these amendments, and I thank the noble Baroness for taking forward this issue. We did retable our original amendment as Amendment 21,

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but that was simply to make sure that something was on the agenda. Clearly, I will not move it when we reach that stage.

Amendment 7 agreed.

Amendment 8

Moved by ***Baroness Hanham***

8: Clause 7, page 6, line 8, leave out "accounts, or" and insert "accounts;"

Amendment 8 agreed.

Amendment 9 not moved.

Schedule 4: Further provisions about auditor panels

Amendment 10

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

10: Schedule 4, page 41, line 3, at end insert—

"(10) Such regulations shall in particular provide that an individual shall be ineligible to act as a member of an audit panel if that individual has any disqualifying interest."

Lord McKenzie of Luton: My Lords, the purpose of the amendment is to test the scope of the term "independence", although it is written in terms of an audit committee rather than an audit panel. I regret not having been able to attend the meeting which the noble Baroness, Lady Hanham, kindly organised to consider these issues, but I am grateful for the note which was provided.

We have reflected on the proposition that all principal authorities must have an audit committee whose functions include those required of an audit panel, and we see some merit in the Government's argument that this could be too restrictive. We consider that all principal authorities should have an audit committee to undertake the range of functions with which we are familiar. Given that the appointment of auditors is a new function, the audit committee would be a natural place to provide the appropriate scrutiny and oversight of the relationship with the external auditor.

However, given the importance to that scrutiny and oversight role of the independence requirements, we think these should be paramount. These independence requirements are not mirrored in audit committee arrangements, and the CIPFA guidance is more focused on the separation of engagements of executive and scrutiny members. That guidance does not require a minimum number of independent, non-councillor members. So if we insist on audit committees to carry out the auditor panel role, and on the independence requirements to be satisfied, it seems to be the case that many local authorities would have to substantially restructure their arrangements. We encourage them to do so, but to require them to do so where audit committees are currently functioning well is perhaps against the spirit of localism.

The suggestion that the auditor panel might be a small sub-committee of an existing audit committee almost gets the best of both worlds, and may at least provide a transitional solution. However, the primary purpose of the amendment was to address the definition of independence. For this purpose, the Bill requires members of the audit panel to be independent of the authority for which the auditor is to be appointed. In the Bill independence is defined in terms of individual positions; that is, membership and relationships—so parent or grandparent. It does not cover influential business relationships, for example. The amendment is intended to open up this possibility.

It seems from the briefing note received just last week that it is intended for these other matters to be covered through a combination of regulation and guidance. This is welcome, but we should at least ask when we might see a draft of this. When will it be ready for colleagues in the Commons to consider, if not for ourselves? The Bill has spelled out in some detail the membership and personal relationships components of a definition of independence, but we have little or no information on these other components. I would be grateful to hear further from the Minister. I beg to move.

Lord Palmer of Childs Hill: My Lords, the amendment of the noble Lords, Lord McKenzie and Lord Beecham, says that an individual will be ineligible if that individual has a disqualifying interest. Yet it seems, by all the purposes of any law there is, that if you have a disqualifying interest you are by nature ineligible. I listened to the noble Lord, Lord McKenzie, and I still struggle to see why one needs to clarify and why one needs the amendment, because if one has a disqualifying interest one would be ineligible. I raised this matter at early stages of the Bill. As for who should sit on these panels, yes, the members of the local authority who are qualified may sit on the panel, and there then seems to be a great emphasis on independent members.

At this stage I declare an interest, and I probably should have done so earlier in the course of this debate. I am currently a chairman of a local authority audit committee. I do not think that this disqualifies me, and perhaps it qualifies me particularly to comment on this. One of the interesting things which I hope the Minister will address in her answer is that it is currently quite the custom in many local authorities, including my own, for a member of that local authority who is of a different political party from the ruling party to be the chair of the audit committee. That very often provides a very independent chairman or chairwoman of that committee.

I am worried that if we change that and require an independent committee chair, will that chair be as independent as an opposition chair? By the nature and appointment of audit committees, when looking for people who will be independent, particularly in the case of chairs, there is in some cases a possibility that those appointing will look among people they know who may have political sympathy with the ruling administration. The current arrangements seem to give chairs greater independence. This is probably wider than the amendment of the noble Lord, Lord McKenzie, but it seems to me to follow on from what is a disqualifying interest. I think we are giving that too much concentration, rather than the actual and real independence of the person who chairs that committee.

Baroness Hanham: My Lords, my noble friend and the noble Lord, Lord McKenzie, raised several issues, seeking clarification about the auditor panel. I start by reminding noble Lords how the auditor panels will operate, and how we are moving to keep arrangements streamlined and flexible in terms of whom the auditor panel is made up of. First, I want to confirm what I said in Committee, that we do not expect these auditor panels to be large. We expect them to be quite small, probably three or five people at the most. This does not exclude members of the audit committee being members of the panel, as long as they are independent members. If the audit committee has an independent member, than that member can be a member of the audit panel. I do not think that there would be anything to exclude them being chair of the panel, if that is required. It would not actually preclude a member of the opposition being chair of that panel. We can see that that is how they will be made up.

Other than that, they can appoint a completely separate auditor panel outside the audit committee regime. There again, they will have to make sure that the members of that panel are majority-independent. Again, that would not preclude any member of the local authority being part of it, even though they might be considered to have some relationship with what is going on because, by definition, they were a member of the council. None the less, we think that there might be some virtue in having a councillor or councillors on the auditor panel to help with the selection.

Amendment 10 goes back to our discussions on wider issues; that is, the assessment of the independence of auditor panel members beyond direct personal links to the audited authority. I hope that I have explained that we need them to be really independent. Some concern was expressed last time, a concern which I do not think the noble Lord raised this time, about significant business relationships. By any definition, a significant relationship with a local authority, particularly on a contractual basis, would preclude somebody being a member of the panel.

We do not want to make much more regulation, but I think that we need to look at giving some guidance about who can and cannot be on an auditor panel. We will do this as the regulations are considered later in the year.

Baroness Eaton: Can the Minister give a bit more information about the process of selection for independence? That would deal with the point made by the noble Lord, Lord Palmer, about political affiliations sometimes not being absolutely clear. Is there likely to be a clearly defined process for how local authorities select independence? Rather than their just saying, "That is an independent person; we'll have them", is there going to be due process?

Baroness Hanham: My Lords, local authorities have due process already, as the noble Baroness knows, on how to appoint people, panels, independent committees and standards boards where independent members are required. I would not want to tie this down too firmly, other than to say that they must be pretty clear that nobody on the panel has a connection with any firm that may be applying to do the audit. If they have a political affiliation that should be declared so that, before the auditor panel is set up, it is known if they have a particular affiliation. Apart from, as I have suggested, there perhaps being one councillor on the panel, it is pretty clear that people should have some experience of audit so that they know what an audit looks like and what they might be expected to do.

We do not rule out independent members possibly being a member of a political party but it is essential that that is known so that there is transparency about it. We would hope that not more than one person, who would probably be the person off the council, would be that member.

It will be essential for members of auditor panels to declare any wider interests, commercial as well as political, and any other interests that they might feel had any relevance. Those would need to be taken into account in an appointments process that the committee undertook. If members of the audit committee were making the appointment they would have to make a balanced judgment on the balance of the panel, aligned with what I have already said. If it is an external appointment it will have to go through an external appointments process.

I think that it is clear that there should be, and be seen to be, independence in the auditor panel. I think that it is clear that local authorities have experience of dealing with external appointments. Although I understand the concern that the panels could be "stuffed" with political appointees, I think that there has to be transparency as to who is appointed. If it were found that it was just a political panel, it might be very open to question.

5.45 pm

Lord McKenzie of Luton: I thank the Minister for her reply. The noble Lord, Lord Palmer, criticised the drafting of the amendment. I should explain that its purpose was simply to put down a mechanism which could be used to address wider issues of independence. We had in mind, specifically, significant business relationships. The Bill defines independence in terms of personal relationships; it should cover as well, for example, significant business relationships, which was the purpose of the amendment.

I was comforted by the briefing note that was produced following the meeting. It states:

> "Through this combination of regulations and statutory guidance the Government intends to address other important aspects of independence for an auditor panel. We intend to work with interested parties and the sector to develop the detail of these, but as an example they might cover … the necessary skills and experience of panel members … specifying that certain persons are not independent where they have … significant commercial relationships with the authority or audit firm … the process through which independent members should be appointed … considerations around political balance, where the panel includes elected members … the conduct of members and, for example, how declarations of interest are managed on an ongoing basis".

Each of those points, or at least some of them, were touched on by us in Committee. I took comfort from that. In a sense, that was the issue or the focus that my—clearly inappropriately drafted—amendment was seeking to address.

[Lord McKenzie of Luton]

I reiterate where we are on the issue of audit committees or auditor panels. I think that, because there is in some instances a potential conflict between wanting to fulfil the independence requirements and the broader role of the audit committee, the best solution where they cannot be aligned is the sub-committee approach. I am not quite sure who at the meeting raised that, but the briefing note again confirms that the auditor panel could simply be a sub-committee of the audit committee. As long as that auditor panel fulfils the independence requirement, honour and justice are satisfied. That seems to us to be a helpful way forward which still encourages local authorities all to have audit committees and to move to greater independence relating thereto.

Baroness Hanham: Although I do not think that I mentioned sub-committees, I think that I made it clear that where there are audit committees, the membership could be drawn from the independent members of that committee, with possibly a local councillor. The implication is that audit committees are meant to be there and could form the basis of the auditor panel.

Lord McKenzie of Luton: My Lords, I am grateful for that and beg leave to withdraw the amendment.

Amendment 10 withdrawn.

Schedule 5: Eligibility and regulation of local auditors

Amendment 11

Moved by ***Baroness Hanham***

11: Schedule 5, page 50, line 8, leave out "and" and insert—

"( ) omit ", 23A(1)", and"

Baroness Hanham: My Lords, Amendment 11 is necessary following a recent amendment to the Companies Act 2006 made by regulations. As I am sure noble Lords are instantly aware, paragraph 21 of Schedule 5 to the Bill modifies Section 1253(5) of the Companies Act 2006. That section specifies the conditions for delegating functions, such as the function of recognising supervisory bodies, to an existing body and refers to Schedule 10 to the Companies Act 2006, which is also applied by Schedule 5 to the Bill. On 8 July 2013, the Statutory Auditors and Third Country Auditors Regulations 2013 were laid. One effect of these regulations is to insert a reference to paragraph 23A(1) of Schedule 10 in Section 1253(5) of the 2006 Act. Paragraph 23A of Schedule 10 to the Companies Act is expressly omitted by paragraph 27(2)(f) of Schedule 5 to the Bill. This is because paragraph 23A of Schedule 10 concerns arrangements for independent monitoring of third country audits, which are outside the scope of this Bill.

Therefore, for consistency with the other modifications to Section 1253 in paragraph 21 of Schedule 5 to the Bill, we are providing for the omission of the new cost reference that the Third Country Auditors Regulations 2013 will contain. This is a minor, extremely clear and easily understood technical amendment that responds to an amendment to the Companies Act 2006 and I beg to move.

Lord McKenzie of Luton: My Lords, we are perfectly happy with this amendment.

Amendment 11 agreed.

Clause 19 : General duties of auditors

Amendment 12

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

12: Clause 19, page 13, line 9, after "accounts," insert "and that the statement presents a true and fair view,"

Lord Wallace of Saltaire: My Lords, this group of amendments deals with amending the scope of the auditors' work. Amendment 12, which amends Clause 19, puts into the Bill a requirement for auditors of relevant authorities, other than health service bodies, to satisfy themselves that the statement of accounts presents a true and fair view. This requirement for health bodies is already in Clause 20.

The noble Lord, Lord McKenzie, moved a similar amendment in Grand Committee. In response, we provided assurance that it is indeed the Government's intention to require larger relevant authorities to produce statements of accounts which are "true and fair" and for local auditors to give an opinion on whether this is achieved. We explained that this is not included in the Bill, but the same outcome will be achieved through a combination of the Bill and the regulations to be made under Clause 31, mirroring the same approach that is currently used.

We have reflected on this and other related discussions since Grand Committee, and consider that there are benefits to placing an explicit requirement in the Bill for auditors to give an opinion on whether the statement of accounts is "true and fair", rather than retaining the current approach. The key benefit, of course, is alignment within the Bill between the audit requirements for health bodies in Clause 20, and those for local government bodies in Clause 19. Furthermore, presenting accounts that are "true and fair" is an established accounting and audit concept which is also used in legislation governing the audit of central government and companies.

The amendment will make clear that the accounts of the larger relevant authorities must meet the same high standards. However, because Clause 19 applies to all non-health bodies subject to audit under this Bill, this amendment will apply the "true and fair" standard to the audit of all relevant authorities. As we said in Grand Committee, the Government do not consider it appropriate that the "true and fair" standard should apply to smaller authorities. Smaller authorities are required to ensure that their accounts "present fairly" or "properly present", which are briefer and more proportionate forms of accounting.

It will therefore be necessary to modify these requirements for smaller bodies, which the Government intend to do through the regulations under Clause 5. The modifications will retain the audit requirements on smaller bodies so that auditors of smaller bodies are required to continue to satisfy themselves that the accounts "present fairly" or "properly present".

We are not planning to make the other amendment to Clause 3 that Lord McKenzie moved in Grand

Committee, which would require relevant authorities to prepare statements of accounts which are true and fair. We believe that the amendment to Clause 19 achieves all that is needed. The duty on auditors in Clause 19 will effectively require the authority to prepare to true and fair standards. We will confirm that requirement in the regulations that will be made under Clause 31, by requiring the chief finance officer of larger relevant authorities to certify that the accounts show as true and fair. This is similar to the approach for health service bodies—which are required to keep proper accounts showing a true and fair view—and the Companies Act which says that the directors must not approve the accounts unless they are satisfied that they give a true and fair view.

Amendments 13 to 17 amend Clause 20, which sets out the general duties of auditors of health service bodies. These are needed to provide that the auditor of the accounts of special trustees is not required to give a regularity opinion. Clinical commissioning groups—which are covered by Clause 20—are funded by Parliament to commission health care services. As such, they are accountable to Parliament for how they utilise these resources. Clause 20 therefore requires the auditor to give an opinion on whether the CCG has used these resources as Parliament intended and in accordance with guidance covering financial transactions.

However, this clause currently requires auditors of the accounts of special trustees to provide a regularity opinion of these accounts. Special trustees are appointed by university or teaching hospitals under Section 212 of the National Health Service Act 2006 to hold property on their behalf. There are currently only three boards of special trustees in existence: for Great Ormond Street Hospital in London, the Royal Orthopaedic Hospital and Moorfields Eye Hospital. As these bodies do not receive funds voted by Parliament, there is no need for a regularity opinion by the auditor on their accounts. The general duties of the auditor of a special trustee are otherwise the same as for a CCG.

Finally, Amendment 65 is consequential to the amendments made to Clause 20 and technical in nature. It is required to enable Clause 20 to apply to audit of the accounts of NHS trusts and the trustees of NHS trusts in the same way as it applies to special trustees. I beg to move.

Lord McKenzie of Luton: My Lords, I thank the noble Lord, Lord Wallace, for introducing these amendments. We are happy with them. I will speak first to Amendment 12. We debated this issue of accounts being required to show a "true and fair" view in Committee, as the noble Lord said. We had drawn attention to the disparity of wording in the Bill between the general duties of auditors of relevant bodies which are health service bodies and those which are not. The requirements for local authority accounts to show a true and fair view was part of the process towards full GAAP compliance in the whole of government accounts.

In response to our amendment, the Minister, the noble Baroness, Lady Hanham, reassured us that it was a requirement for larger relevant authorities to present accounts that were true and fair and this was achieved through the interaction of primary and secondary legislation—the Audit Commission Act 1998 and the Accounts and Audit (England) Regulations 2011. The Minister said in Committee:

> "We intend to mirror this requirement in the regulations to be made under Clause 31".—[*Official Report*, 17/7/13; col. GC 30.]

However, the Minister went on to say:

> "This approach is less complex than specifying 'true and fair' requirements in the Bill, because further amendments would be required to disapply these provisions … for smaller authorities, which, as the Bill makes clear, are not required to ensure that their statement of accounts are true and fair".—[*Official Report*, 17/7/13; GC 31.]

As I said, we support the government amendment. I was going to inquire about how that latter point would be dealt with, but the noble Lord covered that in his presentation.

Before commenting on Amendments 13 to 17, I take the opportunity to thank the Minister and the Bill team for facilitating a meeting about the differing effects of the Bill on local authorities and health service bodies, and for the helpful follow-up tabulation. That tabulation presaged the amendment in noting that a regularity of opinion was necessary in respect of clinical commissioning groups, because they were funded by Parliament to commission healthcare services. This is not the case for NHS trusts which receive income from contracts.

The Bill already disapplies the regularity requirements for NHS trusts in Schedule 13 and, under this group of amendments, does so for special trustees. The amendment specifically restores the other requirements of Clause 20(1) in paragraphs (a) to (c) for special trustees. However, it is not immediately clear how those provisions are reinstated in respect of NHS trusts—that is, those which are not special trustees. I think that the clue to that is in Amendment 65, to which the noble Lord referred, but it would be helpful to have clarification on that point. Subject to that, we are happy with the amendments.

6 pm

The Archbishop of York: My Lords, on Amendment 12, if the statement is true, are not the words "fair view" fatuous? Could you have a true statement which needs qualifying as being unfair? If it is true, it is true. Are those warm words, are they warming up the word "true"? What do they add, those words "fair view"? If it is true, it is true.

Lord Palmer of Childs Hill: My Lords, unfortunately in accountancy there is a certain jargon. "True and fair view" is jargon used by firms of accountants and auditors from time immemorial, probably since the formation of the Institute of Chartered Accountants of Scotland, which was the first institute.

My query is whether this is not something which could be included in the external auditors' audit report in the normal way. Currently, the external auditors' audit report will say that the accounts have been true and fair and all the other jargon that goes with it in a format which has evolved over the years. The amendment seems to provide that the auditors must be satisfied that the local authority presents its accounts in a true and fair way. If that be the case, I wonder whether my noble friend can say, either now or in writing, whether

[Lord Palmer of Childs Hill]
the auditors' report itself will need to be amended. Currently, the auditors' reports just say that the accounts are, in their opinion, true and fair—or words of that nature. Now we seem to be saying that the external auditor must be satisfied that the local authority has presented its accounts in a true and fair way, which seems to be going beyond the opinion that those figures are true and fair. I know that we have a jargon and that the statement should be true but not fair seems completely wrong, but this is a form of words which has been used by accountants for years and is being replicated in the Bill.

The government amendments raise the question of other accounts which the external auditors are auditing at the same time and which are included in the audit of that local authority's accounts. For instance, when a local authority's accounts are audited, the auditor—it is not necessarily the same auditor, and if it is, it is a section of that auditor separated by a Chinese wall—audits the pension fund of that local authority. That is treated by external auditors as a separate audit. Because of national accounting requirements introduced about three years ago, those pension fund accounts had to be incorporated within the accounts of a local authority, producing some very strange figures and below-the-line amendments, which sometimes make accounts of a local authority understandable only by a very rare breed of people. I believe that there is someone in Whitehall who is meant to understand them. Will my noble friend comment on that inclusion within the audit report and how it affects the supplementary accounts which are amalgamated by law, such as pension funds of the local authority?

The Archbishop of York: Does not the noble Lord think that a legislature is entitled not purely to accept jargon, however old it is, because the law needs to be very clear about what it is stating? Yes, jargon may have been there for centuries. In the council of the Church of England, the jargon is well known, but when we draft a Measure to come to your Lordships' House it will be in a language understandable by the people. So yes, that may be the jargon, but what is the meaning? What is it getting at? Do you still have to keep jargon when you are legislating?

Lord James of Blackheath: My Lords, my attempts to help in this House usually end up in worse confusion, but let me try. I raised the same question about 40 years ago when the phrase was first coming into regular usage. The explanation I got at the time was that the accounts will be true but they may not be fair because they do not answer the question which accountants never ask at an audit stage: that is whether there is a working capital certificate sufficient to support the cash flow. Therefore, you have to say that the accounts are true, but they may not be fair because they may not highlight the pitfall that the cash is going to run out. So "true" and "fair" belong to each other, but they have a separate and subtly different meaning.

Lord Wallace of Saltaire: My Lords, I have been sitting reflecting on the Psalms which are read to us in that wonderful translation at the beginning of Prayers each day and the number of redundant words which are used in repeated phrases in the course of them. I think that it is not only accountancy which uses phrases which might possibly be pruned if one wished.

Let me try to answer some of the questions which have been raised. Amendment 65, about which the noble Lord, Lord McKenzie asked, amends Schedule 13, which makes provision for NHS trusts. On the question of auditors and related audits, I take the point raised by the noble Lord, Lord Palmer, and think that I had better promise to write to him. The next group of amendments tabled by the noble Lord, Lord Wills, raises some large issues about the related audits, which we certainly need to discuss seriously.

I am briefed to say that "true and fair" is an established audit concept. The National Audit Office's code of audit practice will set out how that is to be reported in auditors' reports, so the NAO will tell the auditors exactly how to interpret the auditors' jargon. I beg to move.

Amendment 12 agreed.

Clause 20: General duties of auditors of accounts of health service bodies

Amendments 13 to 17

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

13: Clause 20, page 13, line 37, leave out "health service body" and insert "clinical commissioning group"

14: Clause 20, page 13, line 43, leave out "body" and insert "group"

15: Clause 20, page 14, line 3, leave out "body" and insert "group"

16: Clause 20, page 14, line 6, at end insert—

"(2A) In auditing the accounts of special trustees for a hospital, a local auditor must, by examination of the accounts and otherwise, be satisfied—

(a) that the accounts present a true and fair view, and comply with the requirements of the enactments that apply to them,

(b) that proper practices have been observed in the preparation of the accounts, and

(c) that the special trustees have made proper arrangements for securing economy, efficiency and effectiveness in their use of resources."

17: Clause 20, page 14, line 13, after "(1)(c)" insert "or (2A)(c)"

Amendments 13 to 17 agreed.

Amendment 18

Moved by ***Lord Wills***

18: After Clause 22, insert the following new Clause—

"Auditors right to documents and information of private contractors

(1) A local auditor has a right of access at all reasonable times to audit documents from private companies that the local authority have contracted services to during the last financial year.

(2) Local auditors only have a right of access to audit documents from private companies, under subsection (1), that relate to the service provided to the local authority by that company.

(3) A local auditor must publish any audit documents, obtained under subsection (1), as part of a local audit publication."

Lord Wills: My Lords, both amendments aim to improve transparency in the new arrangements for local government. Amendment 18 is very similar to one I that I tabled in Committee, and Amendment 23, with which it is grouped, is identical to the one that I moved then. Both were resisted by the Government, and I am bringing them forward again to give Ministers the opportunity to think again about whether it is really in the best interests of the Government, let alone in the public interest, to restrict transparency in the way that continuing to resist the amendments would.

I set out the case for the amendments in Committee, so I will not repeat those arguments in detail now. However, since then, both Ministers and their officials have met me to discuss the amendments, and I should like to place on record my gratitude to them all for all the time and trouble that they took in doing that. The noble Baroness, Lady Hanham, then followed up with a letter, which, I understand, has been copied to all interested Peers, setting out in some detail the grounds of the Government's resistance to the amendments. Again, I am very grateful to the Minister for the careful and thorough way in which she and her officials have approached these issues, and I think they are now owed the courtesy of a response to their arguments.

Their first argument is that the amendments represent an increase in transparency and would bring auditors under the Freedom of Information Act in a way that they were not under the previous regime. I regard this as an argument for the amendments, not against them.

The recent Grant Thornton report for the Care Quality Commission showed just how important transparency can be in the work of those scrutinising the delivery of public services. What the Secretary of State for Justice last week rather politely referred to as,

"a significant anomaly in the billing practices under the current contracts",—[*Official Report,* Commons, 11/7/13; col. 573.]

for electronic tagging has shown how important transparency is for scrutinising the work done by private sector companies for the public sector. In the light of what has been revealed recently about such work and about what has happened in the NHS, I am baffled as to why Ministers should still be resisting increasing transparency.

However, these amendments are not only about increasing transparency, they also set out to tackle a decrease in transparency brought about by the new arrangements. The Audit Commission, which is being replaced by the provisions of the Bill, was covered by the Freedom of Information Act. My understanding is that, in addition to information that it held for its own purposes—which was of course covered by the Freedom of Information Act—some information held by auditors would also have been regarded as being held by the commission in certain circumstances; for example, when it was investigating a complaint against a specified auditor, when it was conducting a quality control of their work, or when it had required an auditor to provide information for the discharge of wider Audit Commission functions, such as making judgments on local authorities' use of resources. In such circumstances, the information would have been deemed to have been held by the Audit Commission and so subject to the Freedom of Information Act.

These are important categories of information that cover significant areas of public interest and concern. Yet, as far as I can see, no public authority, as defined in the Freedom of Information Act, has inherited those responsibilities from the Audit Commission, so under the new regime such information will no longer be covered by the Freedom of Information Act. I think it should be. This restriction of transparency damages the public interest. These amendments seek to prevent that happening.

Next, the Government appear to believe that there are already sufficient provisions for transparency for these amendments not to be necessary. However, as I set out in Committee, the fact that local authorities themselves are covered by the Freedom of Information Act does not always provide the necessary transparency for private sector bodies carrying out public sector work. Nor does the right of electors to inspect accounts and audit documents always provide the necessary transparency, important though that right is and has been for all the years that it has existed.

The Minister will be well aware of all the information that would not be available for scrutiny by the public under this regime. Why should the citizen have to resort to the cost and trouble of going to court under the Government's regime—as the Minister suggested in her letter—to secure rights to transparency, when such rights could be made available to them under the more accessible regime of the Freedom of Information Act?

The Government then argue that exemptions under the Freedom of Information Act, particularly regarding commercial sensitivity and audit activity, mean that little extra information would be made available under these amendments. The Minister, however, will be aware that these exemptions are subject to a public interest test. That is a relatively high hurdle to overcome, so it may mean relatively little information will become available through the means of these amendments. However, when the hurdle is overcome it means that the information that does become available is—by definition—in the public interest. I believe such information should be made available to the public. I am surprised that Ministers want to deny it to them.

Finally, we come to the nub of the Government's arguments, which is that transparency increases cost and so increases audit fees and, ultimately, the cost to taxpayers—and that it may also restrict competition as some auditors will be deterred by the requirements of transparency from bidding for such work.

These arguments crumble as soon as they are examined in any detail. Quite apart from the fact that the Government admitted, in answering a Parliamentary Question from me on 3 July, that they have made no estimate of the cost of bringing local auditors under the Freedom of Information Act; quite apart from the fact that greater transparency can often save money by revealing fraud, corruption, incompetence and inefficiency; quite apart from the question of why anyone should want an auditor carrying out crucial scrutiny of public services who would be deterred from such work by making what they do subject to scrutiny by the public they serve; quite apart from all that, the Government's own figures suggest, as far as I have understood them, just how flimsy this argument is.

6.15 pm

The Government have estimated that the cost of the external audit service 2017-18 would be £74.05 million. That is a meaty income stream for auditors. In my experience, it would take a quite a lot to deter accountants from such an income stream, especially as the costs of complying with a freedom of information regime would be relatively small. The Government, for example, estimate that the total compliance costs for local bodies will be £4.43 million. The cost of freedom of information compliance will be considerably less than that, especially since, as the Minister has pointed out, auditors will have to set up some form of statutory and regulatory compliance regime anyway. In addition, there will a relatively small number of firms doing this work and they will be able to amortise the central costs of compliance over a relatively large number of contracts. In these circumstances, I would guess that the costs of Freedom of Information compliance will be significantly south of £1 million, but if Ministers have a better guess I would be very happy to accept it.

Subject to that, it therefore looks as if the compliance costs will be significantly less than 1% of the revenue available. Are Ministers seriously suggesting that large accountancy firms, operating with the margins that they do, would regard such costs as precluding them from taking on such lucrative and recurring public sector work? If they are, I simply disagree with them.

In conclusion, all these arguments were available to Ministers when they published their consultation document for this Bill. If they did not know the arguments then, they should have done. Also, when they published that document, Ministers stated in paragraph 4.55:

> "We propose that auditors should also be brought within the remit of the Freedom of Information Act to the extent that they are carrying out their functions as public office holders".

What could have changed the Government's minds about that when all the evidence that has emerged about the merits of transparency in the mean time should have confirmed to them the merits of their original position?

I am afraid I am unpersuaded by the Government's arguments against these amendments in the light of all the arguments for greater transparency; the democratic argument that taxpayers should have the right to know about the work they pay for and that citizens should have the right to know about the work carried out on their behalf; and the argument that, on the grounds of good government, transparency is a weapon against corruption, fraud, incompetence and inefficiency. We have seen how important that can be from the revelations made by Secretary of State for Justice last week about the work carried out by G4S and Serco for the Ministry of Justice.

The scandals of the past few weeks are regrettably unlikely to be the last such abuses in the public sector and in its relationship with the private sector. These are things that I hope Ministers will consider. In future, taxpayers and voters will wonder why, when Ministers had the opportunity to improve the transparency of these relationships they refused to do so. Therefore, I urge Ministers to reconsider their position and get on the side of transparency. I fear they will come to regret it if they do not.

Lord Shipley: My Lords, I remind the House of my vice-presidency of the Local Government Association. I was unable to discuss this matter when it was raised by the noble Lord, Lord Wills, in Committee, but he is making a very powerful case. I hope Ministers will be able to respond in a way that meets the issues that he has so rightly raised.

It is clear in Amendment 18 that a private company that is contracted, let us say, to run a refuse collection service or to run a leisure centre will appoint its own auditors to carry out an audit of the service that it undertakes. However, I do not think that that will prove sufficient. The public interest requires, where public money is being spent on a service, that the auditor on behalf of the public sector should have access to information that lies with the body that is providing the service through a contract. This appears to be an attempt to prevent a local government auditor having access to information that would assist the undertaking of that audit because a service has been provided by a private sector company. That does not stand the test of public accountability.

The noble Lord, Lord Wills, has got it right with Amendment 18. It is reasonable to say:

> "A local auditor has a right of access at all reasonable times to audit documents from private companies that the local authority have contracted services to during the last financial year",

and it is reasonable to say:

> "Local auditors only have a right of access to audit documents from private companies … that relate to the service provided to the local authority by that company".

In both respects, that is a reasonable requirement for a local auditor to expect. The public interest is best served by the auditor having those powers because this is about contract compliance in financial matters and service delivery. It is a basic requirement if an audit is to be undertaken successfully. How else can the general public have confidence that public money is being efficiently and properly spent on their behalf? I hope that we will hear from the Minister something that will convince us that Amendment 18 is not necessary.

On Amendment 23, there should be no diminution in the rights under the Freedom of Information Act. When it comes to transparency, particularly in view of the matters that have occurred recently, of which the noble Lord, Lord Wills, reminded us, your Lordships' House has a duty to ensure that transparency in public expenditure and the delivery of the public interest actually happens. I hope that the Minister can give us the assurance that the noble Lord, Lord Wills, is seeking.

Lord Palmer of Childs Hill: My Lords, this is a very interesting amendment. I just wanted to add one other perspective. Any local authority worth its salt, particularly in this time of outsourcing, when so much is being outsourced to outside companies and bodies, will insist—as I have always insisted in my own local authority—that it has a right within the contract with the outside contractor to be able to audit the documents of the outside contractor. The place to do all the

things that my noble friend has suggested is very often within the contract between the local authority and the contractor.

How that works in practice is that the local authority and its internal auditors need to see what the audit processes are within that outside contractor. The idea that the auditor of the local authority will go in on a normal basis and delve into the detailed books and records of the outside contractor is probably stretching the imagination a bit. The trouble with audits—this is where the noble Lord, Lord Wills, really hits the nail on the head—is that they are, in general, historical and you are looking at what went wrong. The noble Lord, Lord Wills, gave two good examples of what went wrong. The question to the noble Lord, Lord Wills, is: if the Government or the local authority have the ability to go in and audit the sort of companies and organisations the noble Lord described, would they have found these particular problems at that stage?

The noble Lord, Lord Wills, is on to a very important point. But I believe—and I hope that my noble friend the Minister will tell your Lordships' House—that those protections of being able to audit should be more properly contained within the contract between the local authority and the outside body to which it is contracting.

The Earl of Lytton: My Lords, I have some knowledge of procurement issues. I, too, declare my interest as a vice-president of the LGA, but my knowledge comes mainly from the All-Party Group for Excellence in the Built Environment, which last year looked at the question of public sector procurement.

One of the things that we identified was the difficulty that many local authority and public sector bodies have in getting these very complicated contractual arrangements right. If they were not got right, you had some form of mission creep. You had this wall of contractual arrangements that could not be looked at until long after the event; for instance, the provision of a sports centre or a school over quite a number of months. Things had gone wrong in a number of cases because there was not the ability to oversee the thing properly or the knowledge of these very complex matters within the particular procuring body—not necessarily local government—to get a real grip on these things. The question was raised as to whether there should be an external procurement adviser to steer the body through. As I say, it might have been a local authority or it might have been a charity or something like that.

The noble Lords, Lord Wills and Lord Palmer, have hit on a very important point here: at which point can you see through into the detail and at which point do you get to "thus far and no further" in terms of the audit not running into some sort of mission creep? It is plain to me that there must be safeguards. Some very significant sums of money are involved. The earlier that problems are picked up and the process can look at structures and get feedback, the sooner they can be put right or something put in place to limit damage.

If not necessarily for the same reasons, I think that the noble Lord, Lord Wills, has raised an extremely important point, and I hope the Minister will feel able to respond positively to that.

Lord McKenzie of Luton: My Lords, we are sympathetic to my noble friend's amendments and supportive of the intention behind them, which is to improve transparency in the new arrangements for local government. As I said in Committee, these open up a very important area of discussion.

Freedom of information legislation has played an important part in opening up government to the public. With some local authorities now outsourcing large portions of their services to firms such as Capita, questions must be asked about how to hold such firms accountable, given the significant amounts of public money that they now manage; for example, some councils will be handing over control of critical council services such as planning, licensing and environmental health to private, for-profit companies. This will make it harder for local residents to get answers and action on issues affecting them. It will also make it harder for elected councillors to monitor and scrutinise these services on behalf of local people. It will make it almost impossible to change services if councillors and residents decide that they want things done differently. My noble friend and others have mentioned the G4S and Serco revelations of last week, which have rightly caused much outrage. We have called for freedom of information legislation to be extended to the delivery of public services by the private sector in order to give greater accountability and transparency.

6.30 pm

This Bill may well mean that there is a small coterie of large auditors that take the lion's share of public auditing duties. These firms have multiple relationships with authorities. They provide other consulting and advisory services, and it is understandable that concerns would be raised about perceptions of conflict of interest or actual conflicts of interest.

My noble friend's amendment raises a range of questions, and I look forward to the Minister's reply. In particular, will he agree that there needs to be a public right to information to ensure that the auditing of tens of billions of pounds of public money is beyond reproach? Does he agree that auditors must be able to look at how private companies spend the billions of pounds of public money that they are currently handed to perform outsourced services? Finally, does the Minister not believe that where companies are propped up by huge contracts such as G4S and Serco, the public should be able to hold them to account and that the public, above all else, have a right to know where their money goes?

Lord Wallace of Saltaire: My Lords, this has been quite a wide-ranging debate and I recognise the importance of the issue that is being raised. I thank the noble Lord, Lord Wills, for the discussion that we had the other week and for the determination with which he is pursuing this. The Government are not persuaded that these amendments serve the cause. It seems to us that the current arrangements provide the requirement for transparency in outsourcing, but I recognise the much wider issues that the noble Lord is raising, such as the growth of outsourcing over the past 25 to 30 years, the potential conflicts of interest that then arise and the rise of substantial amounts of public money that are now being spent by private contractors. The current

[Lord Wallace of Saltaire]
and recent cases of alleged fraud and error that have arisen in a number of areas of outsourcing of the work programme have not been mentioned. However, noble Lords will also remember that there have been a number of worrying cases.

This has grown up over a long period, from well before this Government took office, but it is with us now and we certainly need to look at it. I promise the noble Lord, Lord Wills, that if he would like to pursue this we are open to further discussions. This is the sort of subject that is perhaps appropriate at some stage for a Committee of one or other of the Chambers to look at, to see whether the current rights of freedom of information, rights of access, and challenges from electors and others are adequate, or whether there is a systemic problem that needs to be addressed by legislation.

Local authorities are covered by the Freedom of Information Act and information is directly available from the auditor through the right for local electors to ask questions and raise objections. These cover contractual arrangements with private contractors. The DCLG consulted on bringing local auditors into FOI in spring 2011, when the consultation asked whether local auditors should be brought into the FOI Act. The conclusion was that they should not be brought within the Act, because it was believed that doing so would add little to local authorities being covered in the FOI Act, and because provisions in the Bill retain,

"rights for electors to inspect the statement of accounts and audit documents, and to raise questions and objections with the local auditor".—[*Official Report*, 24/6/2013; col. GC 203.]

As I said in Committee, all respondents to this question said that bringing auditors into the FOI Act would increase audit fees. I shall not repeat the argument that I presented in Committee in resisting these two amendments, but the Government's door is not closed on this. It is a matter that affects all parties and all those in charge of local authorities, future Governments, this one and past ones.

A previous Prime Minister said that the FOI Act was the single biggest mistake that he thought he had made. We disagree with him. It is painful, but necessary. The universality of outsourcing across a range of areas means that from time to time we need to look at this overall, but we are not persuaded that on this particular occasion in this particular Bill these amendments are necessary or appropriate. With that assurance, I hope that we are open to further discussions and that the noble Lord may be willing to withdraw his amendment at this stage, recognising that the question is not therefore necessarily closed.

Lord Wills: My Lords, I am grateful to everyone who has contributed to what has been a valuable debate and from all sides brought to it a wealth of experience and expertise. I am grateful to the noble Lord, Lord Shipley, for his support. The noble Lord, Lord Palmer of Childs Hill, and the noble Earl, Lord Lytton, brought invaluable experience to bear on these issues, and I am grateful to them. They both made a valid point about the fact that the audit can discover problems only after the fact, and the noble Lord, Lord Palmer, asked me directly why I thought that these amendments would still be valuable in the light of that. They would be valuable for many reasons. Perhaps the most important one is that knowing what you do will be subject to public scrutiny is a powerful incentive to getting it right. If you know that what you are doing can be covered up successfully, that is more likely than anything else to ensure fraud, incompetence and inefficiency. I hope that that reassures the noble Lord, Lord Palmer. I am also grateful for the support of my noble friends on my own Front Bench.

I am particularly grateful for what the Minister said; I am grateful to him and his officials for the way that they have engaged with this issue so far. I hope that I am not wrong in detecting just the slightest imperceptible budging from their resistance to these amendments that I saw in Committee, or at least a willingness to carry on engaging with the issues. I welcome this. I also disagree with the view of the former Prime Minister on the Freedom of Information Act and agree with this Minister.

I shall withdraw the amendment today, but I hope that we can return to these issues at Third Reading. The Government have said that they are prepared to look at this again and I welcome that. Even if they do not accept these particular amendments, if they can come up with something better I am happy to discuss that with them. I also ask the Government to look at two issues between now and Third Reading, because they bear on the whole purpose. First, in his response the Minister did not really address my arguments about the inadequacies of the current regime. With all respect to him, he just repeated the arguments in the noble Baroness's letter to me. I have said why I took issue with those arguments, and I hope that he will look at *Hansard* and look again at the problems that I have with the regime that is proposed.

Secondly, there is the question of cost. This has not been the time to get to grips with this, but I still think that the argument about costs is unpersuasive. The fact that a consultation produced a predictable response from the predictable vested interests is no argument for government policy to be made on that basis. So I hope that the Government will look at what the actual costs of compliance are likely to be, how much of a deterrent they are likely to be, how far those costs can be absorbed by auditors and how far they would have to be passed on.

I am happy before Third Reading to extend to the Minister and his officials the invitation that he so kindly extended to me in Committee of meeting them again, discussing these issues and seeing if there is a way that we can find some common ground. If not, we will probably have to return to the matter at Third Reading. In the mean time, I beg leave to withdraw the amendment.

Amendment 18 withdrawn.

Schedule 7 : Reports and recommendations

Amendment 19

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

19: Schedule 7, page 60, line 13, leave out "before" and insert "as soon as is reasonably practical after"

Lord Wallace of Saltaire: My Lords, this amendment makes a small change to paragraph 1 of Schedule 7. It slightly changes the requirements on a local auditor

when issuing a public interest report. The Bill currently places a duty on local auditors to inform the auditor panel before making a public interest report. The amendment changes that duty to a duty to inform the panel,

"as soon as is reasonably practical after"

making a public interest report. The noble Lord, Lord McKenzie, moved a very similar amendment in Grand Committee. At that time we agreed with the intent of the amendment that the auditor panel should not influence the auditor's decision as to whether to issue a public interest report. After further reflection, we consider that such an amendment would be a helpful clarification and would reduce the risk that the auditor panel could be perceived to be influencing the auditor's judgment. I beg to move.

Lord McKenzie of Luton: My Lords, we have Amendment 20 in this group. Obviously, we support the government amendment because it is in keeping with the amendment that we moved in Committee. In Committee we sought to strengthen independent around the process of an auditor issuing a public interest report, and without sight of the government amendment we have retabled our Amendment 20. The sequence has been: in the draft Bill, a requirement to consult with the audit panel; in the current Bill, a requirement to notify the panel before the public interest report is issued; in our amendment, a requirement to notify when it is issued; and now, in the government amendment, to notify as soon as is reasonably practical. This is a progression with which we could not possibly disagree, and we thank the Government for accommodating this point.

Amendment 19 agreed.

Amendment 20 not moved.

Schedule 8 : Advisory notices

Amendment 21 not moved.

Schedule 9 : Data matching

Amendment 22

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

22: Schedule 9, page 74, line 1, at end insert—

"(d) to assist in the prevention and detection of maladministration and error."

Lord McKenzie of Luton: My Lords, this, too, is a re-run of the amendment moved in Committee, which we consider is unresolved business. Its intent is to add to the purposes for which data matching can be used the prevention and detection of maladministration and error. At present, data matching can be used for the prevention and detection of fraud. The relevant Minister can add certain specified purposes by regulation, but only after a consultation exercise. The prevention and detection of maladministration and error is not currently one of these additional purposes. Accepting the amendment would not immediately bring this purpose within the scope of data matching but would allow it to be included in future after due process.

The Audit Commission currently undertakes data-matching exercises for the purpose of the prevention and detection of maladministration and error but does so under its audit powers. I refer again to the national duplicate registration initiative relating to GP lists and the role played by data matching. When we asked about how this would proceed in future, we did not receive an answer. Perhaps we can have an answer today. How would that initiative go forward with the Audit Commission having been abolished?

The amendment is only about preserving opportunities for tackling maladministration and error, not extending them, a matter on which I would assume we had common cause. In Committee on 26 June, the noble Lord, Lord Wallace, said:

"I understand that the Audit Commission has already run exercises looking at error rather than fraud, using its other powers and that furthermore, following the abolition of the commission, such exercises might not be possible. I am, therefore, interested in better understanding the outcome of such exercises … and … the risks and benefits of including a power such as that proposed".—[*Official Report*, 26/6/13; col. GC 223.]

Will the Minister share with us the conclusions of the further deliberations and discussions with the Audit Commission on this point? I remind him that the amendment enables only the introduction of a power. Further steps would have to be taken before it could become effective.

6.45 pm

We have also discussed before the important role of the national fraud initiative, data matching and the need for the NFI to have a secure home in future. In Committee the Minister said that he hoped to be able to announce by Report what the arrangements would be. We wonder whether he has any news on that front.

We acknowledge that data matching quite properly raises important issues of privacy and the need for there to be robust safeguards. Schedule 9 to the Bill includes these and a requirement on the relevant Minister to prepare and keep under review a code of practice. However, if the Government are to reject this amendment, then it is incumbent on them to explain which powers and processes are to be used in future after the closure of the Audit Commission to replace the efforts to prevent and detect maladministration. I beg to move.

Lord Wallace of Saltaire: My Lords, I begin by informing the House that, following careful consideration of all options, the Cabinet Office will assume responsibility for the national fraud initiative, subject to the passage of this Bill. The transfer to the Cabinet Office will allow the national fraud initiative to continue and develop its effective and important work to complement wider government activities to tackle fraud.

Officials are continuing to discuss transitional issues over the coming months to ensure a smooth handover once the legislation is in place. Perhaps it would be appropriate to remind noble Lords that I am the Lords spokesman on the Cabinet Office. I was indeed being briefed by the Cabinet Office fraud and error team some weeks ago. We are considering whether or not to draft a data-sharing and data-matching Bill for the consideration of the House. We face some very large issues at national as well as at local level, which involve issues of data privacy and identity assurance,

[Lord Wallace of Saltaire]
all of which we need to discuss within the wider framework of national and international consideration of this as well as consideration by local authorities. Noble Lords may remember that in Committee I expressed some surprise at just how far local authorities and the Audit Commission had gone in this direction when the national Government were being very hesitant about how far it would be appropriate to go in some of these areas.

On this Bill, it is the Government's intention that the data-matching clauses should, before we move towards discussing the much larger issues in the changing digital revolution that we are concerned with at present, remain consistent with the provisions in the Audit Commission Act 1998 to ensure continuity and stability on its transfer to its new home. Amendment 22 would insert a fourth potential purpose for data-matching exercises: to assist in the prevention and detection of maladministration and error. The noble Lord, Lord McKenzie, made a very persuasive case for this amendment in Committee and provided some helpful examples of the types of exercises that the Audit Commission had already run, looking at error rather than fraud, using its other powers.

My noble friend Lord Palmer of Childs Hill rightly highlighted the issue of function creep in relation to data-matching exercises. In doing so, he brought to the House's attention the need for very careful consideration of these matters, Perhaps I should say that as a liberal in every sense, I am battered on both sides on the question of the convenience that the digital revolution provides us with but also the enormous threats that it offers to individual privacy if we are not careful about how we manage data holding, data sharing, data matching and data mining. I am sure that all noble Lords are aware of the distinctions between all of those. This is a very difficult area, and while the detection of error as well as of fraud is inherently valuable, it would allow the new owner of the national fraud initiative to continue the Audit Commission's work. Any amplification of ministerial powers in this area therefore requires careful consideration. I assure the noble Lord that my officials are working with a range of interested parties to gain an in-depth understanding of past and potential future uses of this power. This includes representatives from the Information Commissioner's Office, and I will be meeting the Information Commissioner before the summer on this matter.

My officials are also seeking further advice from the Audit Commission about exercises it has carried out using its other powers and the risks and benefits that such an extension might entail. I look forward to meeting the noble Lord in due course to update him on progress in this area, recognising that we are tip-toeing around the edges of one of the major issues that any future Government will be facing in the next three to five years: how we cope with the explosion of digital information available on cloud computing. I hope with those assurances that the amendment can now be withdrawn.

Lord McKenzie of Luton: My Lords, I must express some disappointment with the Minister's response. I am grateful for the information on the transfer of the NFI to the Cabinet Office and I am reassured that it will be in the safe hands of the noble Lord as the Minister in your Lordships' House. I share the concern about the enormity of some of the data holding, data sharing and data mining privacy issues. I took it, perhaps from what the Minister said, that there was the prospect of some broader legislation not too far down the track. However, I hang on to my point that this amendment would not extend one little bit what happens at the moment. In fact, the amendment would not even take us as far as we are today with the Audit Commission because it would need those further processes before it came into being. Whatever else is going on and whatever the scale of these other issues—I share the noble Lord's concerns over those—I fail to see why this provision cannot be taken forward. It seems to me that there is a diminution in the Government's task of tackling maladministration and error without these powers being available. I do not think the noble Lord explained how they would be dealt with differently once the Audit Commission goes out of existence and how this range of opportunities would be replicated under the new arrangement. I do not know whether the noble Lord would like another go at trying to convince me on that, but it would be helpful if he could. What will happen to the Audit Commission's current audit powers to deal with maladministration and error? What will replace those just to have an equivalent process when the Audit Commission goes?

Lord Wallace of Saltaire: The Cabinet Office is looking at the issue of fraud and error in government as a whole in a wider context and would like to examine the experience of the Audit Commission further and to feed that into our wider discussion about the future of data sharing, data mining, data matching and that whole area. We do not intend to leave a long-term hole but to treat this within the broader context of what is happening. Some of us have been concerned in rather a different context with the shift from household electoral registration to individual electoral registration, where, as it happens, some of the same issues arise.

Lord McKenzie of Luton: I am grateful for that further explanation. I take the point that this will not just be left lying fallow but that there will be some active consideration of it. I still hang on to my point that the active consideration could take place without implementation by having the amendment in the Bill. If not, we will need primary legislation of some sort in the future to bring it into being as part of the data-matching process, if that is what the conclusion is on further analysis. Having the amendment in the Bill does not mean that it has to be activated, because the Minister has to go through a consultation process to do that. As there is going to be this broader look, it seems to me that the Government have reached the wrong conclusion. They could have adapted the Bill to include this amendment even if they never implemented it. I think we have probably been around this enough, unless the Minister wants to say something further.

Lord Wallace of Saltaire: I note the noble Lord's preference for belt and braces. I have some doubts about how many pieces of legislation we have passed

that have not been commenced, so perhaps I am slightly in the other area on this. However, I promise to write to the noble Lord further about how the Government intend to take this forward.

Lord McKenzie of Luton: I am grateful for that. I recognise that the Minister sees this as extremely poor, as, indeed, do the Government. I beg leave to withdraw the amendment.

Amendment 22 withdrawn.

Clause 35 : Disclosure of information

Amendment 23 not moved.

Clause 38 : Code of practice on local authority publicity

Amendment 24

Moved by ***Baroness Hanham***

24: Clause 38, page 23, line 37, leave out "a local authority" and insert "one or more specified local authorities"

Baroness Hanham: My Lords, in June, the Delegated Powers and Regulatory Reform Committee published its report on the Local Audit and Accountability Bill. The report made a recommendation regarding the provisions in the Bill to prevent local authority newsletters unfairly competing with local newspapers. We have considered the recommendations in this very useful report carefully, and this group of amendments is the result of those considerations.

The committee said that in certain circumstances it is inappropriate for powers to make the code mandatory to be exercisable by directions rather than by statutory instrument, and subject to no parliamentary procedure. The committee recommended that, where the Secretary of State wishes to exercise his power to issue a direction to all local authorities in England or to a specified description of authorities, the affirmative resolution procedure should apply. While recognising that there can be circumstances where it is appropriate for the Secretary of State to be able to give directions to a class of, or to all, local authorities, we accept the committee's recommendation that the exercise of this power in relation to classes of, or to all, local authorities, should be by affirmative statutory instrument.

We also agree with the committee's implicit view that, where the power is exercised in relation to a single authority that the Secretary of State believes is not complying with the code, it would be appropriate for this to be by way of direction. However, we do not agree with or accept the committee's recommendation that, where the power is exercised in relation to a single authority otherwise than where the Secretary of State believes the authority is not complying with the code, this should be by negative statutory instrument.

Our aim is simple: to be able to take effective action against those authorities that are giving rise to concern about their publicity, particularly relating to the publication of newspapers. Above all, in the case of such authorities, quick and effective action needs to be taken. These amendments ensure that the Secretary of State can continue to take that quick action against individual authorities. In cases where groups of authorities or all local authorities in England are being required to comply with some or all of the publicity code, we agree that this should be by order, subject to the approval of both Houses of Parliament. I beg to move.

Lord Beecham: My Lords, we are now coming to that part of the Bill that reflects several of the obsessions of the Secretary of State, not necessarily of the Minister. It is interesting that the draft Bill committee had, of course, no opportunity to consider these matters because they were not part of the original Bill; they were tacked on to the Bill at a later stage. I suppose we should be grateful that at least the Delegated Powers Committee has had an opportunity to comment on it. In fairness, I am grateful to the Minister and to the Government for accepting at least part of its recommendations, the part that referred to directions given to all local authorities. However, I find it difficult to follow the reasoning for the rejection of the second recommendation about directions to an individual authority.

The committee indicated that a power does not merely afford a specific and targeted enforcement mechanism but could—and would, if the relevant subsection is relied on—have the character of a legislative power. It took the view that it is inappropriate for powers of this kind, to make the code mandatory, to be exercisable by directions rather than by statutory instrument. Hence the two recommendations it made; in fairness, the Government have accepted one of them, although they did not accept the other. That decision was communicated to the committee and is reported in its sixth report, which was printed as recently as 11 July. In fairness, the report was written in June, but it does not indicate exactly when. However, it was considered by the committee only a matter of a few days ago—or at least, its report was published only a few days ago.

7 pm

I do not understand the logic of the Government's position on the alleged urgency of being able to direct a specific authority, presumably not to publish newspapers or whatever. The report says that if it had been made subject to a negative resolution procedure,

"this could inhibit the policy of being able to take quick, targeted, and effective action against an authority where there were concerns about its publicity".

I am not sure what concerns the Government have. In introducing the government amendments the noble Baroness spoke to the competition offered to local newspapers by local authorities. That is an issue to which we will return a little later, probably at some length; I am looking at the noble Lord, Lord Tope at this point. However, competition cannot be stopped, or indeed produced overnight. It is an ongoing process.

Later on in her speech the noble Baroness seemed to hint at the other aspect, of some impropriety about the nature of the publications. In other words, presumably, she meant that it would be wrong for political propaganda to be published at public expense. Again, we will return to some of those issues. I do not follow the urgency in this context. I do not see why censorship—

[Lord Beecham]
which is effectively what this becomes—should take place without parliamentary approval or at least the possibility of Parliament negating such a step. After all, what is the recourse to be? We might find ourselves in a position of judicial review. Fortunately, councils would not have to apply for legal aid, which presumably will not be available under other of the Government's measures. Nevertheless, one can see the scope for litigation here.

I do not see the urgency that the noble Baroness adduces as a reason for the Government's stance. Perhaps she could exemplify some of the instances in which, had the Government had the power, they would have used the power they are now giving themselves to intervene in a particular situation. Are there examples of this or is there evidence of the kind of abuse—whether that is competitive or political abuse—to which presumably the Government's proposals are directed? If that evidence is not there, the Government should rethink their position. This is a significant incursion into the responsibilities of local government, given the existence of a code, and given the steps that could be taken by a variety of sources—to which we will, no doubt, refer again later—if breaches are carried out by authorities.

The other aspect is, as I understand it, that the directions could be given to a number of authorities at large, without specific reference to their particular concerns. I and my colleagues on these Benches are extremely sceptical about both the motivation and the effect of this, and we think that the Delegated Powers Committee's proposals should have been accepted in full rather than in part. Parliament and not a Minister should be given the unfettered right to determine steps of the kind envisaged by the Bill as it would stand if the Government's amendments are carried.

Baroness Hanham: My Lords, as the noble Lord knows, on the code of conduct, as regards publicity, and in general, it would be fair to say that the code is probably reasonably well observed among the majority of authorities. There could be occasions—I say "could be" because that is how we need to put it—in which a number of authorities breach all or part of that code, in which case it would be essential that the Secretary of State was able to take action. If it is a large number, there would, presumably, by definition be some really serious element that had come about so that the Secretary of State needed to be aware of it. However, this could do with a further look at in Parliament, and further consultation. We fully accept that that would need parliamentary time.

We already know of local authorities that are breaching the code in terms of a number of publications—what is in the publication and what relates to them at the moment. Since we now know about these it would not be sensible to have to wait and waste a lot of time in delaying taking the direction to stop them, getting them to comply, getting that matter dealt with and moving on.

We have responded in as straightforward a way as we can to the DPPRC's recommendation, except for on this one area. Indeed, it may be that these individual directions to these individual authorities and would be the most that would be applied. I do not expect there to be many; as always, with these things, there are those who breach and cause trouble for the rest. However, there is no doubt that we would expect or hope to continue with the provisions in the Bill as have been outlined and, for the reasons that I have said, that it makes sense to get individual local authorities to stop what they are doing as quickly as possible. They are probably just breaching individual aspects of the code.

Amendment 24 agreed.

Amendment 25

Moved by ***Lord Tope***

25: Clause 38, page 23, leave out line 38 and insert "where the Secretary of State is satisfied that a local authority has failed to comply with the code under section 4"

Lord Tope: My Lords, I shall also speak to Amendments 28, 30, 33, 35, 36 and 37. Before doing so, I must, for the first time in your Lordships' House, declare my interest as a vice-president of the Local Government Association, now for very nearly two weeks. It gives me great pleasure to do so, and to begin by not doing what the LGA will not wish me to do. The LGA remains resolutely opposed to Clause 38; we will have an opportunity very shortly to look at that. The preferred position of the LGA—and, I think I am right in saying, of all the political groups in that body; it most certainly is the position of my own Liberal Democrat group there—is that it would prefer to see the deletion of the clause entirely.

I have tabled this collection of amendments because I recognise that the Government will not be able to agree to do so because the terms of the coalition agreement state:

"We will impose tougher rules to stop unfair competition by local authority newspapers".

That is what is in the coalition agreement, and the Bill is the vehicle that the Government have chosen to implement that part of the agreement. I accept that I, too, am bound by that agreement. My clutch of amendments is therefore an attempt to meet the terms of the agreement which I personally signed up to, as did my party. However, it is targeted, rather than the broad-brush approach that the Government seem to have at present.

The problem with Clause 38 is that it is rather more than a catch-all, although it does apply to all local authorities. It gives the Secretary of State power to intervene, regardless of whether the local authority is complying with the code or not. That is not in accordance with the coalition agreement which is quite specific about dealing with unfair competition. In reality, it means that those authorities—if there is more than one—which are producing a weekly newspaper, paid for by commercial advertising that arguably might have gone to a local commercial newspaper, are in competition with that local newspaper. That part of the agreement attempts to give some protection to local newspapers going through a difficult—probably terminal—period. Whether that is a correct analysis of the situation for local newspapers—and it certainly is not a complete analysis, nor is it a subject for debate today—that is the position we are in.

Amendments 25 and 28 seek to limit the rather wide-ranging power that the clause currently gives to the Secretary of State and to target it on those authorities deemed to be in breach of what is, at the moment, a voluntary code. That gives the Secretary of State the power—which he feels is insufficient at the moment—to deal with a real problem and not just the threat of a possible problem. We all accept—and the Minister has said many times that she accepts—that the overwhelming majority of local authorities, regardless of their political complexion, are complying with the code, have shown no signs of not doing so and are certainly not coming under the terms of the coalition agreement.

Amendment 25 and Amendment 28 are the targeted approach. Amendment 30 and Amendment 36 simply extend the period in which the Secretary of State has to give notice of a direction from a very short 14 days, which includes non-working as well as working days, to 28 days. This is in accordance with best practice; it is certainly in accordance with common practice. It gives a local authority a reasonable, though not a long, time to make its case if it feels that the direction is misplaced—as any local authority in that position is very likely to do; otherwise it would not have put itself in that position in the first place.

Amendment 33 and Amendment 35 state the method by which the Secretary of State has to inform an authority. At the moment the clause is silent on how this is to happen. I have a horror that it is likely to be done via a press release from the Secretary of State—something for which he is quite well known. The first the local authority might know of the fact that it is the target would be if it were to receive something through the media in the language that the current Secretary of State is renowned for using. So these amendments state how the Secretary of State must issue that direction.

7.15 pm

Amendment 37 asks the Secretary of State to take into account whether acting outside of the code is in the best financial interest of the local taxpayer. When the Minister replies, I hope that she will say a bit more about what exactly is to be caught by making this code statutory. Local authorities seem to have a lot of concerns that restricting their publications is inadvertently going to cause them to spend more money promoting policies or matters not of political but of public interest—such as public health. There is quite a lot that a local authority has and will have to do in raising and publicising such issues and in campaigning. The briefing quotes examples ranging from job advertisements to information about bank holiday opening hours of recycling facilities. I find it hard to believe that the Secretary of State is going to intervene because he believes that a local authority is in breach of a publicity code over the bank holiday opening hours of recycling facilities. However, this is an example of the sorts of concerns—real or exaggerated—that local authorities have about making a code statutory.

Since we all agree that very few local authorities are currently or likely in the future to be caught by this, I hope that the Government will consider what more they can do. Perhaps the Minister can give further reassurance that—as things stand, and as we expect them to stand—the vast majority of local authorities which comply voluntarily with a voluntary code and are not a cause for concern, will not be affected if and when this becomes a statutory provision.

I am proposing this group of amendments to try to remove the blunderbuss approach that seems to be worrying a very wide range of authorities. That is why all parties in the LGA are concerned. It is not because their local authorities are in breach of the code; it is because of the wide-ranging powers that it is giving to the Secretary of State. These are entirely contrary to the much talked about—but not so often seen in practice—localism to which my Government, and many of us in my Government, are committed, which is a targeted approach. I think that most of us here would accept that there is a problem with the activities of one or two local authorities going too far perhaps with a commercial weekly newspaper, or occasionally in party-political rather than in general political terms, and that that problem needs to be dealt with. Clearly the Secretary of State feels that the powers he has at present are inadequate—although I do not recall the Minister telling us why they are inadequate—and the coalition agreement implies that this is so.

I would like to take this a little further and obtain some clarification about what exactly may be caught by these provisions. I have seen it said that when this is enacted it will mean that local authorities will no longer be able to lobby their own local MPs. That has been said, although I find it hard to believe. Perhaps I may ask the Minister what will be the position for those local authorities that, for instance, might wish to oppose a third runway at Heathrow Airport, should that become a probability or even a government policy. Are they able in the interests of their own local taxpayers to express a view, which is almost certainly an all-party view within that local authority, even if it is contrary to government policy? Will the local authorities on the line of HS2 be allowed to express a view—again, I suspect that it is likely to be an all-party view as well as the view of an overwhelming majority of residents in that area—which may not comply with government policy or with views that I personally hold, although that is not material?

If they are able to speak on behalf of their residents in opposition to government policy, how far does that go? Before long, we would come to welfare reform issues. Of course all of us accept that a council should not use public money to operate on a party-political basis, but how far can it go in being able to reflect the views of local residents on an issue of wider national concern, regardless of party politics? I suspect that all of us would say that it is the responsibility of the local authority to represent and to argue the views and interests of its local residents, and if it did not, or it felt inhibited in doing so, then it would be failing those residents. So these are the sorts of issues that the move from a voluntary code, with which the overwhelming majority of local authorities comply willingly, to a statutorily backed code—with all the accompanying concerns, issues and fears, groundless or otherwise—starts to raise.

[LORD TOPE]

This batch of amendments is an attempt to target the remedy, where remedy is needed, and not to cause the widespread concern that is currently held. I beg to move.

The Earl of Lytton: My Lords, I willingly gave my name to the amendments in this group. Like the noble Lord, Lord Tope, I did not feel that this was the right stage of the Bill to argue about whether Clause 38 should stand part, although I am aware of the LGA's concern on that. It leaves hanging the question of justification, to which the noble Lord, Lord Tope, referred. The rule seems to be designed to deal with the very few, to the potential disadvantage of the many. That is a questionable approach. The purpose of Amendments 25 and 28 is to address this.

On Amendments 30 and 36, the period of 14 days is manifestly too short for the sort of notification and response that is required in this situation. I am advised that 28 days is regarded as appropriate and the norm. Will the Minister be kind enough to explain why the norm must be cut in half?

Amendments 33 and 35 concern the basis on which the Secretary of State will inform an authority—perhaps he might choose to do so by text message to the chief executive, or something like that—and the clarity of the procedures for that confirmation, which are worthy of being tightened up. I hope that there will be a favourable response to that suggestion as well.

On Amendment 37, it seems that the present code allows for latitude in what the authority shall "consider" or "have regard to". It might be a value-for-money consideration or something like that. The question is whether, in transition from the current voluntary code to the proposed statutory code, the latitude will continue to be there. That is the nub of the question, and the bit that has not yet been answered satisfactorily. Having said that, I very much support the thrust of the amendments in this group.

Lord Beecham: My Lords, as I listened to the noble Lord, Lord Tope, moving his amendment—which, given an opportunity, we would support, faute de mieux—I was reminded of the remarkable film of the man who walked on a high wire between the Twin Towers in New York. It was an extraordinary experience. With this amendment, the noble Lord is navigating the gap between the Bill and the coalition agreement. I do not recommend that he emulates the high-wire artist, because he is very likely to fall precipitately to the ground, judging by what he has advanced tonight.

To begin with, the noble Lord assumes—he may be right—that the Government's proposals are directed at unfair competition. That is the term used in the coalition agreement. It may be the case, but what constitutes unfair competition is far from clear. What the evidence is for unfair competition existing is even less clear. I will quote, as I did in Committee, from material supplied by the National Union of Journalists. One might have thought that it would be fairly sympathetic to the Government's point of view, since journalists' jobs are presumably more at risk if there is unfair competition in the newspaper industry than are the jobs of a handful of local government press officers. The NUJ pointed out:

> "The last select committee charged with investigating the matter, observed that there was no evidence of a link between high-frequency local authority publications and the decline of ad revenue, circulation etc of the local press in the local authority catchment area".

It also pointed out that the Audit Commission—perhaps this is one of the reasons that it is being abolished—in 2010,

> "effectively debunked the assertion of newspaper proprietors that local authority publications represented unfair competition and were commercially damaging to other local newspapers".

The Audit Commission found that the money spent by councils was not unreasonable, that few council publications were published sufficiently frequently to be a viable media for most local advertising, and—a matter to which no doubt we will return—that the current accountability framework would ensure that any misuse of public money could be dealt with.

Those are fairly strong views by an interested party that, one might have assumed, would be sympathetic to the Government's position but is not. Its evidence is substantial in that respect. It also points out that the press began reducing its workforce many years ago, and that already something like 61% of local newspapers in the area it contacted had closed or struggled. One reason was the decline in advertising revenue, but it was not to be attributed to local authorities including advertising in their publications, because, as the Audit Commission pointed out, in almost all cases the publications were too infrequent to have that impact. Some 55% of newspapers cited competition from the new media.

It does not stop there. There are free newspapers in circulation. The *Evening Standard* is a free newspaper. I am not sure about the new paper launched by the *Independent*. It may be free, or cost a nominal amount. Some of the newspaper groups themselves publish freesheets. *Metro* is published by a newspaper group and carries advertising. Therefore, the notion that somehow local authorities are responsible for the difficulties is ludicrous.

Even if local authority publications constituted competition, to what extent would it be unfair? Is it unfair because the publication is free, or in some other way? Are advertisers not able to make a commercial judgment about what would suit them better? I should have thought that that was central to government policy. The proposal to dismiss the Government's suggestions here would not constitute a breach of the coalition agreement because there is no evidence that the unfair competition part is at all relevant to what the Government are trying to do.

There is another issue. The Government's proposals would apply to the code, but the code can change. We do not know what restrictions the next code will bring in. Most of the code, as it stands, is fairly reasonable and acceptable. I dispute the necessity to limit titles to four publications a year, but most of the rest is fairly balanced. What is to stop the Government tightening the code and deciding on a range of things beyond those that they now say should not be published—or, conversely, should be published—in local newspapers? This would give a blank cheque to a Secretary of State to tie the hands of democratically

elected local authorities in terms of how they communicate to their electorate, who, after all, should have the final say in what is done locally.

Of all Secretaries of State, the present one is the last person I would like to see entrusted with those powers. I would be quite happy, or relatively happy, for the noble Baroness to have that power but I would not be at all happy to have the present Secretary of State exercising it. Nothing in the Bill would prevent him tightening up the code and using this mechanism to ensure that it is enforced. My preference is for the whole clause to go. I am anticipating what may be said, perhaps rather more briefly, in a subsequent debate. The noble Lord's amendment would moderate the damage but in my view he should have stuck to his guns and his party's principles and recognised that he would not breach the coalition in so doing. Then we could have perhaps exercised a bit more leverage on his coalition partners, for the time being, and improved the Bill rather than allowing it to go forward to the statute book in its present form.

7.30 pm

Baroness Hanham: My Lords, I am probably in danger of saying the same thing three times as there is no doubt that these amendments stray into each other. We have heard some pretty wide comments on the code as it stands, which probably go slightly wider than the intention behind the noble Lord's amendments. None the less, we should be very clear that we are talking about the publicity code. I think that guidance is given to local authorities on seven aspects of the publicity code, their behaviour in relation to it and what it involves. It is a statutory code but compliance is voluntary at the moment. If the Secretary of State had to intervene, it would become mandatory only as regards the aspects on which he gave directions, if that was done across the board. If the Secretary of State gave an individual direction, that would be mandatory only for the relevant local authority. This is not a case of putting the whole code on a mandatory basis but of directing local authorities where they are seriously breaching the current code. We are interested only in those local authorities—and there are some—which are giving rise to concern about their publicity because they are producing far too many weekly or fortnightly publications—the terms of the code are three monthly—or are going beyond the reaches of propaganda or stepping outside what they should be doing and producing publicity which is too political. Those are the areas we are dealing with. As I have said several times, I totally accept that the majority of local authorities comply with the code without thinking about it. It is part of their lives, as it were, and they do not set out to breach it. However, some do and this Bill gives us an opportunity to make sure that they are put under some constraint.

Amendment 25 would require the Secretary of State to be satisfied that a local authority had failed to comply with the code under Section 4. The amendment is not necessary and inappropriate. It would needlessly complicate and risk delaying the exercise of the power of direction, which, as I have explained, needs to be quick. Having the making of a direction formally conditional on this simply opens the door to even more debate, argument and delay. That is not compatible with our aim of rapid, targeted action.

Amendment 28 would remove the power for the Secretary of State to give a direction to an authority whether or not he thinks that authority is complying with the code to which it relates. This would remove the Secretary of State's power to issue a direction where there was doubt over compliance with the code in the future. It is right, when legislating for a new provision, to ensure that as far as possible the provisions cater for different eventualities so that you do not have to keep coming back to the various aspects but cover them so that they do not need to be followed up.

Amendment 30 would lengthen the period a local authority might continue not to comply with the publicity code. The noble Earl, Lord Lytton, agreed with my noble friend Lord Tope that the 14-day period was too short. Local authorities will know perfectly well when they are breaching the publicity code, so a two-week notice period is perfectly reasonable under those circumstances. The notice must be given in writing. A text message or an e-mail will not do. A formal notification must be given, marking the start of the 14 days' notice. I am sure that the local authority concerned would have plenty of time to raise its concerns.

I return to the important point made by the noble Lord, Lord Beecham, on the form of the code. The Secretary of State cannot just change the code any old how. Any changes to the code would have to be approved by both Houses of Parliament, and any revision to it can be made only through the negative resolution procedure, so it would have to come before this House. The noble Lord shakes his head but a negative resolution can be turned into a proper debate in this House, as he knows as well as I do. The revision must be laid in draft before each House of Parliament and cannot be laid until after 40 days. This is the norm. If you laid the changes before 40 days, the noble Lord, Lord Beecham, who keeps an eye on these things, would leap on it after day three. If either House votes against the proposed change, it cannot go ahead. I think that is more or less the situation with any such proposal.

Amendment 35 is similar to the amendment on the notification. I think it is intended to require the Secretary of State to write to individual local authorities—I have already indicated that he will—modifying or withdrawing a direction. Any notification between the Secretary of State and a local authority would have to be in writing.

Our amendment, which makes provision that the exercise of the power by the Secretary of State to ensure compliance with the code in relation to all local authorities in England of a specified description, or to all local authorities in England, should be made by an affirmative statutory instrument, removes the need for these amendments. It would be highly unusual for an order-making power to be subject to a requirement for the Secretary of State to bring it to the attention of relevant authorities. To make special provision for the publicity code in this instance would bring confusion to other order-making powers, and is unnecessary.

Amendment 36 would build on Amendment 30 which, as I have said, would lengthen the period a local authority might continue not to comply with the

[Baroness Hanham]
publicity code. For the reasons I have set out and because we wish to move swiftly where there is an abuse of taxpayers' money, I see no reason to extend the 14-day period.

Finally, Amendment 37 would require that a direction must take into account whether the authority has demonstrated to the external auditor that acting outside the code is in the financial interests of the authority to whom a possible direction may apply. This amendment would, I am afraid, once again delay the process. Local authorities know when they are spending too much money. In some circumstances, local authorities can act outside the code and issue notices, leaflets and newsletters as long as they are straightforward. I think that we will discuss that later.

This is also unnecessary. The provisions already allow local authorities to make representations before a direction is made requiring them to comply with the code. The 14 days does give them an opportunity to comply. Those representations could include a view from the auditor if the local authority wants it, but we would not require it. Taken as a whole, we do not consider the amendments necessary. I do not suppose that the noble Lord will be entirely reassured by what I have said but we have other amendments and we will no doubt consider them even further. I hope that from what I have said so far, the noble Lord will be happy to withdraw his amendment.

Lord Tope: My Lords, I am grateful to the noble Earl, Lord Lytton, for clearly supporting my amendments and putting his name to them. I am not entirely clear whether the noble Lord, Lord Beecham, was supporting them, grudgingly or not, but I am grateful to him for at least recognising my high wire act. I shall endeavour to remain on the wire. I am grateful to the Minister for at least a detailed reply on the amendments. To say that I am disappointed would imply that I had higher expectations in the first place. I am sad to say that I probably did not.

I was surprised at the Minister's dismissal of the issue of the 14 days to 28 days notice, as 28 days is normal, good practice. It is hard to understand what is to be of such urgency that it can be dealt with under the 14-day notice but is so urgent that it cannot be dealt with in 28 days. I am surprised more than disappointed. The Minister will know that these provisions are causing widespread alarm, much of which I believe to be understandable but misplaced. I hope that in her further replies, which she herself said she will have to make, she will give greater reassurance on a number of the examples that I gave in moving the amendment—whether they are of the more standard publicity-type notices that local authorities issue, such as bank holiday recycling arrangements or notices about public health, or the rather more difficult ones concerning the third runway or HS2. I hope that we can get some reassurance on that.

A great majority of authorities cope within the voluntary code but we know that most local authorities are risk averse. They need to be and should be risk averse. They are advised by lawyers who are by nature risk averse. I fear that the consequences of what we are doing here will be far greater than even the Secretary of State intends. We will continue with this issue. I am quite certain that it will continue throughout the passage of the Bill. I hope that the Government will be willing not to dig in their heels but to look at how they can better and more specifically achieve their objectives than is currently the case. I beg leave to withdraw the amendment.

Amendment 25 withdrawn.

Amendments 26 and 27

Moved by ***Baroness Hanham***

26: Clause 38, page 23, line 38, at end insert "or those authorities"

27: Clause 38, page 23, leave out lines 39 to 42

Amendments 26 and 27 agreed.

Amendment 28 not moved.

Amendment 29

Moved by ***Baroness Hanham***

29: Clause 38, page 24, line 11, leave out from "a" to end of line 17 and insert "direction to an authority, the Secretary of State must give the authority notice in writing of the proposed direction."

Amendment 29 agreed.

Amendment 30 not moved.

Amendments 31 and 32

Moved by ***Baroness Hanham***

31: Clause 38, page 24, line 20, leave out from "it" to end of line 22

32: Clause 38, page 24, leave out lines 25 to 28

Amendments 31 and 32 agreed.

Amendment 33 not moved.

Amendment 34

Moved by ***Baroness Hanham***

34: Clause 38, page 24, line 30, leave out from "section" to end of line 35 and insert "by notice in writing to the authority or authorities to which it was given"

Amendment 34 agreed.

Amendments 35 to 37 not moved.

Amendments 38 and 39

Moved by ***Baroness Hanham***

38: Clause 38, page 24, line 44, at end insert—

"4B Power to make order requiring compliance with code

(1) The Secretary of State may by order made by statutory instrument impose a duty on all local authorities in England, or all local authorities in England of a specified description, to comply with a code issued under section 4 that applies to those authorities.

(2) An order under this section may impose a duty to comply with—

(a) one or more specified provisions of a code, or

(b) all of the provisions of a specified code.

(3) A order under this section may—

(a) specify the steps that an authority to which the duty applies must take to comply with it;

(b) specify the time within which such an authority must comply with the duty.

(4) The Secretary of State may make an order under this section which applies to an authority whether or not the Secretary of State thinks that the authority is complying with the code to which the order relates.

(5) An order under this section—

(a) may make different provision for different cases or classes of case, including different provision for different descriptions of local authority;

(b) may make incidental, supplementary, consequential, transitional or transitory provision or savings.

(6) A statutory instrument containing an order under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(7) In this section "specified" means specified in an order under this section."

39: Clause 38, page 24, line 45, leave out "section 4A" and insert "sections 4A and 4B"

Amendments 38 and 39 agreed.

7.45 pm

Amendment 40

Moved by ***Lord Beecham***

40: Clause 38, page 24, line 46, at end insert—

"(3) In section 4 of the Local Government Act 1986 (codes of recommended practice as regards publicity) after subsection (8) insert—

"(9) In respect of the characteristics set out in section 4 of the Equality Act 2010, nothing in section 38 of the Local Audit and Accountability Act 2013 shall restrict the rights of authorities in pursuance of their obligations under section 149 of the Equalities Act 2010 to publish at any time factual material by way of correction or rebuttal of inaccurate statements which promote discrimination, harassment or promotes or constitutes other unlawful acts.""

Lord Beecham: My Lords, this amendment stems from concerns raised at a meeting of the all-party group inquiry into electoral conduct, to which I referred in Committee. Doubts have been expressed about whether it would be possible for local authorities at any time, but even during elections—perhaps especially then—to correct mis-statements of fact that could give rise to problems in relation to the Equality Act, such as racist or discriminatory statements that might apply to particular groups.

The noble Baroness said that she would look into this and write to me to clarify the position. I am grateful to her for doing that. She confirmed that it is permissible for local authorities to do exactly that, even during an election period, which is probably the most urgent time, provided that it is a factual statement. The purpose of the amendment is simply to allow the Minister to repeat for the record and *Hansard* the assurance that that is the position. That would be of some comfort to electoral officers and local authorities that might be confronted with this situation. Given some of the things that are being said up and down the country by various groups, it is likely that at some point local authorities will feel constrained to issue material of that kind, perhaps during an election period. It would be good to have that assurance on the record. I am extremely grateful to the noble Baroness and indeed to the Government for acknowledging that perhaps there was a doubt and for clearing it up so comprehensively.

Baroness Hanham: I am happy to confirm what I have written to the noble Lord and I will read it out. The publicity code explicitly provides for a local authority to correct or rebut misinformation, making explicit provision in the sections about objectivity and care during periods of heightened sensitivity. Moreover, it contains provisions about equality and diversity, specifically allowing local authority publicity to seek to influence the attitudes of local people or public behaviour in relation to matters including equality, diversity and community issues.

During an election period, for example, local authorities may publish factual material. A local authority should take care when issuing publicity and should not be issuing publicity that seeks to influence voters. However, this does not prevent an authority from fulfilling its role in seeking positively to influence people in terms of equality and diversity. Hence if there is disinformation in circulation promoting harassment, a local authority may take action to correct it at election time or indeed any other time. The provisions in the Bill do not change the contents of the publicity code that have been agreed by Parliament. Rather they give the Secretary of State the power to ensure that taxpayers' money is not being wasted by local authorities by disregarding the publicity code. Nothing in the publicity code prevents local authorities addressing issues of discrimination or harassment and tackling them head on. No local authority can claim that the provisions in the Bill to tackle non-compliance with the publicity code prevents them complying with the Equality Act.

In short, this amendment is not necessary and I hope that, with the reassurance that I have given the noble Lord and what I have said in the House today, he will be willing to withdraw the amendment.

Lord Beecham: Indeed, I am, and I repeat my thanks to the Minister for making the position clear. Now it is on the record. I beg leave to withdraw the amendment.

Amendment 40 withdrawn.

Amendment 41

Moved by ***Lord Beecham***

41: Clause 38, leave out Clause 38

Lord Beecham: My Lords, in the parallel universe occupied by the Secretary of State, Pulitzer prize-style municipal correspondents can no longer haunt the corridors of town halls, rigorously holding local authority leaders and councils to account. They have now been supplanted in his imagination by what he describes as

[LORD BEECHAM]
"town hall *Pravda*s". To adapt a phrase, it seems that the local authority devil wears *Pravda*. In so doing, the local civic newspapers disseminate propaganda at public expense.

As I have demonstrated, there is very little evidence to support any of that, still less that the effect has been damaging to the local media. On the contrary, local media have very consciously and over many years withdrawn from reporting local government. I remember in the early 1980s, when I was leader of Newcastle City Council, urging the BBC to appoint a local government correspondent. They had a very good reporter there who has now made a national reputation, Mr Michael Blastland, who covered local government and much else. That was rather unusual for a local television and radio station, but it was not by any means a full-time job and the idea did not seem to catch on.

Furthermore, at a later point, the local papers in Newcastle, the *Journal* and the *Evening Chronicle*—which, strange to say, my constituents and those of the noble Lord, Lord Shipley, when he was a councillor and leader of Newcastle City Council, were able to distinguish from the city council newspapers occasionally distributed, contrary to what the Government appear to think happens in the real world—apparently decided that they would reduce the amount of coverage of local affairs. They attended meetings and contacted members of the council, me and others, less frequently.

I raised the point with them and made it nationally as well. The *Journal* in Newcastle, the morning newspaper, said that it had conducted a survey and its readers were not interested in local affairs. Therefore, it ceased to be to any extent, a paper of record, which is what good newspapers ought to be. It did this not because of competition from half a dozen issues of Newcastle *City News* but because, in its judgment, the readers were not interested. Some of us like to think that the virtue of local media is that they seek to educate and inform the local community. They have abdicated that responsibility; they have done it of their own volition and it is ridiculous to suggest that that has been caused by local authorities.

The conflation of a variety of issues that have been adduced to support the Government's position on the whole issue of a code of publicity is entirely unconvincing. There is no significant cost to local authorities. There is no evidence, as I have already reported, via the National Union of Journalists, that it has had an impact on the circulation of local papers and the decline of revenue. On the contrary, there are many other explanations, which I will not rehearse again. As for the other main argument, that there is a danger of political abuse by some of these papers advocating a party line or support of the authority in control of the local council, of course that can and should be dealt with without a code, because it would be unlawful as matters stand to conduct propaganda in that way.

We have debated at considerable length the role of the auditors. The auditors have a responsibility in this and other matters. They are entitled to look at whether council expenditure, in the area of publicity, for example, is lawful and appropriate. In addition, there are other sanctions that can be applied including, in extremis I suppose, judicial review. Therefore, both props of the Government's case fail. It is not necessary to emulate the man on the wire to deal with these matters. It is simply the case that the Government are overreaching themselves.

I have to comment on the hypocrisy of a Government that allows, possibly promotes, its Civil Service spokesman to make statements using the personal pronoun. Therefore, government spokesmen—not Ministers, or even MPs or Peers—in the form, presumably, of press officers or civil servants are all too often quoted as saying, "We are taking action on it". It might be on welfare benefits or whatever. That is a politicisation of the Civil Service that is a step too far. It happens all too regularly. I do not say that it did not happen under the previous Government. I cannot recall such events, but it may still have happened. Under any Government, it is wrong for that to happen. If that were to happen in local government, there would be a legitimate outcry. It would be quite wrong for a chief executive or an officer of an authority to use the personal pronoun on a political issue, as opposed to saying that it is the council's policy.

In addition to all the other grievous sins of omission and commission that the Government commit in this area, this is something that they ought to look at on their own account before they descend on local authorities in the way that they propose in the Bill. Again, I remind your Lordships that the draft Bill committee was given no opportunity whatever to discuss matters of this importance. It is not surprising that the Local Government Association is completely united across the political divide about this, hence my amendment opposes that the clause should stand part.

Baroness Hanham: My Lords, the trouble with clause stand part debates is that they tend to come after everything else has been said. The danger is that one says it all over again. As I said, three groups of amendments have all covered more or less the same ground. I must ask the Chamber to forgive me if I cover some things that have already been said. It is clear that the Government do not see the situation in quite the same way as the noble Lord, Lord Beecham, has laid out tonight, nor as the Local Government Association has seen it in wanting all these provisions removed. We do not believe that should happen. We accept, as I said, that the great majority of local authorities will never breach the code. They will always do, and be guided by, the right thing.

I shall not say which local authorities we already know are breaching the code. I have them. I could do it, but I think it is probably not helpful. I hope noble Lords will accept my assurance that at least a dozen are breaching them at the moment. Either they are publishing publications, very frequently, outside the terms, or they are including propaganda or their own political statements. It is there and it is wrong; that is not what was meant to happen. As I say, with legislation the opportunity comes to try to put that right. Once again, it is putting it right for a minority—I totally accept that—but put it right we must. The Secretary of State is not taking very draconian powers. If the Secretary of State would have to put a broad direction out to a whole lot of authorities, we would be very worried about what local authorities were doing. That

provision is there in case it is needed, but we are much more concerned at the moment about the individual authorities doing individual transgressions.

There are two elements of this, as I have said right from the outset. The provisions are necessary to make sure that taxpayers' money is not abused; to see that local authorities produce publicity, not propaganda; and to ensure that local newspapers—which the noble Lord, Lord Beecham, slightly downgrades—hold local government to account. They are often full of what is going on; they are the proper means by which that should be done. The provisions do not change the publicity code itself; the guidance remains the same, allowing local authorities to communicate effectively with their communities. However, the clause provides the Secretary of State with the power to direct one or more authorities, as I have said. The clause also sets out the procedure to be followed, as we discussed—14 days' notice in writing—and provides for a direction to be modified or withdrawn in writing.

8 pm

We believe that these provisions are necessary. A recent Ofcom ruling criticised one local authority for spending taxpayers' money on political advertising, which showed that weekly local newspapers are not the limit of ambition, nor the limit of disregard, for a publicity code agreed by Parliament. The provisions are balanced, because once a Secretary of State gives notice of issuing a direction, the local authority has the opportunity to make representations about the need for that direction but has a default two weeks in which to do it. They are sensible, because the clause, along with these provisions, includes provision to withdraw or modify the direction.

The provisions give the Secretary of State the flexibility to make a direction requiring compliance. As there is currently widespread compliance, we hope and expect that these measures will not be necessary, although effectively they may be. We are not opening the door to action that could be detrimental to local authorities. As I have said, if local authorities are complying with the publicity code, they have nothing to fear. There is certainly nothing to prevent local authorities combining to oppose something which is not in the interests of their communities.

The noble Lord, Lord Tope, asked about lobbying. This is about written publicity in terms of advertising or leaflets. Local authorities have the responsibility to look after their communities. If they feel that there is something detrimental, they can do that. As for lobbying Members of Parliament, if any leader worth their salt is not able to contact their local Member of Parliament, it seems to me that somewhere along the line there is a rotten relationship.

We believe that these provisions are necessary, even though they are for a small group of authorities at present which may very well, by the time the Bill is passed, be complying automatically. I ask the noble Lord to withdraw his amendment and leave the provisions in the Bill, where we believe they belong.

Lord Beecham: I thank the Minister for her reply, of course, but I simply do not recognise the world she describes. I am in my 47th year as a councillor in Newcastle and have seen very successful journalists, now on the national stage, cutting their teeth as municipal correspondents on both the morning and evening papers in Newcastle. I have seen them coming to council and committee meetings and telephoning and speaking to members of the council, leaders and opposition leaders over the years. There was then a gradual decline, from about the late 1980s. Journalists now very rarely attend council meetings and hardly ever attend a scrutiny meeting—a function that ought to be made more of in local government and in the local media. As I understand it, they rarely contact officeholders.

We all agree that the local broadcast and print media should be informing people and helping to hold local government, and indeed other public organs, to account. However, the fact is that they are not doing it and they are not doing it because they are facing a cyclical decline as they are overtaken by other forms of media, to which I fear most of us are contributing these days on our BlackBerrys or iPads. The world has moved on, which is unfortunate, and it seems entirely wrong that the Government should seek to restrict what councils themselves can do to explain what is happening to their communities in the way that is being described. It would of course be wrong for them to use these publications for political purposes; as I have already indicated, that can and ought to be dealt with under existing audit procedures or otherwise. However, it is clear that the Government are not going to move on this—the entire Government, as the coalition partners are unfortunately united—and, in that case, there is no prospect of this amendment carrying. I therefore beg leave to withdraw it.

Amendment 41 withdrawn.

Clause 39 : Council tax referendums

Amendment 42

Moved by ***Lord Beecham***

42: Clause 39, page 26, line 14, leave out subsection (15)

Lord Beecham: My Lords, this amendment refers to the Government's proposal—which, again, was not subjected to scrutiny by the draft Bill committee—to introduce, effectively, an element of retrospection into the question of whether a referendum should be held. The Bill affects councils that have set council taxes for 2013-14 that would have been excessive if the clause becomes law, by virtue of the change that the Government are imposing in relation to levies by other organisations. Fortunately, it turns out that only a small number of authorities would be affected by the Government's proposals. Those authorities are Wandsworth—an authority well known to the noble Baroness and other noble Lords—Bolton, Bury, Manchester, Oldham, Rochdale, Stockport and Tameside. There is clearly a clutch around the Greater Manchester area, which presumably relates to some joint organisation in that area which collects a levy. Why Wandsworth should be affected, I really cannot say, although that does not really matter.

[LORD BEECHAM]

In Committee, the Minister indicated that councils had been notified by, I think, 31 January, that this might happen. However, that is a very late stage in the budget-making process, and it would have been very difficult at that stage to have reduced their council tax to the level which, if the Government were to apply the new rules, would have been operative. I repeat that the problem is not about the council's own budget, it is about the levy imposed by other organisations. Had it been a precepting authority, the precepting authority itself could have had to call and finance a referendum on its own budget.

Many of us are extremely unhappy about the whole concept of these compulsory referendums, which of course do not apply when the Government increases taxes, with a considerably greater effect on the household budget than a corresponding increase in council tax. A 2% VAT increase takes a lot more out of people's pockets than a 2%, or even slightly higher, council tax increase. Be that as it may, the effect is curiously different between a levying body and a precepting body; a levying body simply passes the cost on. The total amount of money is not enormous and would seem to amount to some £7.3 million. If the councils had been able to reduce their council tax to match the levy that they have had to impose, that would have been the cost to them, to be taken out of services. Nevertheless, it is a significant encroachment and, of course, if that were now to trigger a referendum—because the referendum limit becomes lower in future and councils may feel that they have to go for one—the cost of that, across these authorities, is likely to be pretty much the amount of the total levy across all those authorities. It is a bizarre situation. Given that it is now clear that it applies only to a very small number of authorities, in one particular cluster—in what, by the look of it, must be the special circumstances of Greater Manchester—I hope that the Government will reconsider this matter.

I suppose the Government do not have to apply the provisions of the Bill. If they do not want to amend the Bill and they want to reserve the power, so be it, but I strongly urge the Minister to think again about imposing this. It is wrong in principle, and it is an unnecessary reaction to what turns out in any event to have been a pretty small problem in terms of the number of authorities and the cash affected. It would be a statesmanlike move on the part of the Government to accept that perhaps, in the circumstances, they rather overreacted, fearing worse than has actually transpired, and to indicate that at the very least they would reconsider whether to proceed with the implementation of the clause, if they insist on its standing part of the Bill. I beg to move.

Lord Shipley: My Lords, I speak in support of Amendment 43, and will be brief. I agree with the noble Lord, Lord Beecham. I think it is bad policy to backdate the definition of an excessive council tax rise so that it includes a levy from April 2013. I understand that in January this year letters were sent out to local authorities, suggesting that the Government might take this course of action. I will say two things about that. The first is that it is simply not enough notice. Council tax-setting takes much longer than just a few weeks. There is a requirement that council tax is effectively set by the beginning of March, so that bills are can be sent out. In my view, given the lengthy periods of consultation that local authorities are required to undertake, a period of six months would have been more reasonable.

My second reason for objecting to the Bill as it stands is that one should have respect for the law at the time at which the law is applied. I believe that councils and levying authorities abided by the law at the time. As the noble Lord, Lord Beecham, quite rightly pointed out, it is a comparatively small problem. Retrospective change, whether or not there was a warning, seems to me to be wrong in principle, and should therefore be resisted. The noble Lord, Lord Beecham, said that he felt that the Government was overreacting. I concur with that, because I believe that it is an overreaction to backdate in the way the Government propose.

The Earl of Lytton: My Lords, since my name is to Amendment 43, I would like to voice my support for the point that has just been made, and was also made by the noble Lord, Lord Beecham, about the undesirability of retrospection. Notwithstanding the comments made by the Minister at a previous stage of the Bill, there is no question in my mind that Clause 39(15) and (16) are, beyond peradventure, retroactive in their effects. Apart from the self-evident difficulties that that will create within the continuum of local government finance, one supposes that there must be some reason why this has been put in the Bill. I would like to enquire what that reason is, because to date we seem to have had reassurance that there is no intention that this should be retrospective. I do not wish to work out how many angels dance on the head of a pin between retrospection and retroactivity, but I prefer the term "retroactive".

It seems to me that this is almost calculatedly destabilising, and I cannot believe that that was really the intention. It seems to me that there is a necessity for some further words of qualification, so that the clause is targeted at whichever particular issue needs it, and it is not capable of any sort of generic destabilisation of previous years of local government finance settled business, or what should be settled business. I hope the noble Baroness will be able to give an explanation.

8.15 pm

Baroness Hanham: My Lords, Amendments 42 and 43 would remove subsections (15) and (16) from Clause 39. Amendment 45 allows for transitional provisions to be made in respect of previous arrangements or contracts entered into prior to 2013-14. As noble Lords have said, subsections (15) and (16) are not linked and they fulfil different purposes. However, I understand that the noble Lord, Lord Tope, originally tabled these to address a single concern, although he has not spoken tonight. It was made clear in Committee by the noble Lord, Lord Tope, and now the noble Lords, Lord Beecham and Lord Shipley, that Clause 39 and subsection (15) in particular have a retrospective effect, and that the clause would be impractical and councils would have insufficient time to take account of the changes.

With respect to the noble Lord, Lord Shipley, I must restate the Government's disagreement with this view. Neither the clause nor subsection (15) is retrospective. They do not interfere with the council tax and levies set last year. Those increases have been made and are in authorities' tax base for future years.

Subsection (15) simply allows the Secretary of State—should he so choose—to set a referendum principle for 2014-15 focusing on authorities where the council tax, including levies, increased by a large amount in 2013-14. The Secretary of State will consider whether he wishes to do this later in the year as part of the usual round of principle-setting. Authorities and levying bodies will have an opportunity to make representations on principles, which will be put to the other place for approval.

Furthermore, authorities will have the opportunity to set an overall increase in council tax and levies in excess of the principles, making the case to the local population in a referendum if that is where they need to go. If noble Lords work it out—as I think the noble Lord, Lord Beecham, has done—they will find that very few authorities are likely to be affected because the combination of the levies and the council tax potentially gives a bigger pot for the percentage increase.

The approach proposed in the clause is entirely consistent with previous and current practice. Perhaps I may go back to the unhappy word of capping. As part of the setting referendum principles, the Secretary of State considers all relevant factors. These always include council tax decisions taken by authorities in previous years. It is worth highlighting that 2012-13 and 2014-15 have been the only two years since the 1980s when levies have not been part of excessiveness considerations. We are simply reverting to the definition of excessiveness used by successive Governments from 1984 to 2010. This approach resulted in some smaller authorities with a history of lower council tax being set more generous referendum principles in 2013-14. No one accused the Government of taking retrospective action when they took this approach.

The possibility of the Secretary of State setting specific principles for those authorities where substantial levy increases resulted in substantially higher bills in 2013-14 should come as no surprise to them. His speech to the New Local Government Network and his Written Statement of 30 January 2013, and letters to all authorities, could have left them in no doubt as to the possibility. Council tax and levies for 2013-14 were set in full knowledge of the Government's intention for 2014-15—that is, a year later on.

The Government have been clear from day one that council tax payers should be protected from excessive increases, and this clause will extend that protection. It will also increase fairness for local authorities by ensuring that all the money raised through council tax is potentially subject to a referendum if it is in excess of the principles. At present, there are areas where more than 50% of the local council tax bill is made up of levies and is therefore not subject to a referendum.

The legislation is not retrospective. We have been clear about what the situation is since January this year. Existing legislation already gives powers to the Secretary of State to determine different categories of authority, so the measures will not necessarily be across the piece.

Amendment 43 would remove subsection (16) from the clause. It may be helpful for me to explain the purpose of that subsection, which is not, as noble Lords have already admitted, directly linked in purpose with subsection (15). To be able to determine whether an excessive increase has been set in 2014-15, all authorities will need to make a like-for-like comparison between the council tax in 2014-15 and that set in the previous year. The principles will be based on an amount including levies in the next year, so the removal of the provision would not be helpful for many local authorities. It would mean that their previous year's relevant basic amount of council tax would be at a much lower level than that of the subsequent year, against which it was being compared. Subsection (16) simply means that the 2014-15 figure can be compared with the one for 2013-14, which includes the levies that were set for that year. Without subsection (16), authorities would be effectively required to compare apples with pears, and the whole clause would be unworkable. I am sure that that was not the noble Lord's intention.

The Government have been entirely open with authorities about their intention to bring levies within the scope of the referendum legislation and to take into consideration the previous increases when setting future referendum principles. A Statement approving the referendum principles for 2013-14 was laid in the other place on 13 February—so between January and February plenty of notice was given. Amendment 43 would undermine the Government's commitment to protect council tax payers and prevent all authorities and levying bodies being subject to the same kinds of accountability and financial discipline. In view of the comments that I have made, I hope that the noble Lord will not press the amendment.

Amendment 45 replicates one which was proposed in Committee, so I shall expand on the response that I made then. The issue here is city deals and the levies that are envisaged by combined authorities in future years following the agreement between the Government and local authorities, particularly in West Yorkshire. The city deal implementation plan agreed between government and the Leeds City Region included the following summary text:

> "Leeds City Region will establish a £1bn West Yorkshire … Transport Fund overseen by the new Combined Authority. The Fund will be financed by a levy that the Combined Authority will place on individual councils".

In Committee, the noble Lord, Lord Tope, read into the record an e-mail from the director of finance at Bradford Metropolitan District Council. Bradford's contribution to the city deal is funded by a £1.2 million increase to its levy each year.

We have looked at these figures carefully. These levy amounts would produce a council tax increase in Bradford of 0.7% in 2014-15, falling to 0.5% by 2023-24. We have also established that similar percentage figures apply across authorities in West Yorkshire. There is therefore no need for any transitional or other provisions to be made for contracts already entered into, as the levies envisaged by the authorities in the Leeds city deal area are substantially below the current 2% referendum threshold. I therefore hope that the noble Lord is willing to withdraw his amendment.

Lord Beecham: My Lords, it comes to this, it seems to me: you have a system which takes no account of levies, you change that system weeks before the statutory date for the budget so that the levy in that year can be taken into account in settling a referendum limit for the following year—and yet that is not considered retrospective. I seem to speak a different language from the Minister and the Government, and the dictionary speaks a different language as well. It is simply a semantic quibble to say that it is not retrospective.

It is a complicated matter for authorities. The noble Baroness referred to the city deal in West Yorkshire. This was entered into months before the budget. The Minister, with respect, rather airily dismisses the impact of the potential application of the principle in terms of the referendum limit. She quoted Bradford. Leeds is the largest authority in the area. It will gradually build up a contribution until it reaches £15.5 million. That represents a council tax increase of 0.2%, then 1% in 2015-16 and 0.7% per annum right up to 2022-23; 0.7% is a third of the referendum increase threshold. That is quite a substantial chunk, given the pressures that we all know are—and will continue to be—visited on local authorities, as envisaged by the LGA. The Minister's successor by one or two as leader of Kensington and Chelsea is, of course, the LGA's chair. As a percentage it does not sound large, but as a percentage of what is committed by way of an increase, it is very large; and that is in the case of a group of authorities of roughly comparable size, function and budget.

It gets worse than that if, for example, one looks at the position of the Lee Valley Park area. This runs along the Lee Valley, through east London and the Hertfordshire-Essex border. It gets its money from 32 London boroughs, the Corporation of London—which will probably not miss a few bob here or there—Hertfordshire County Council, Essex County Council and Thurrock unitary authority. So there is a vast number of authorities there, not all of which are represented on the board.

In fact, the riparian authorities are limited to Essex, Hertfordshire and other councils and only one member from six of the London boroughs—whereas the total cost is met by 32 London boroughs. Two of their representatives sitting in this Chamber tonight can confirm that. So here is a levying body which individual authorities cannot really influence, yet what it does will have an impact on their referendum.

That is objectionable in principle, but I urge the Government to realise, particularly in relation to the levies that accrue as a result of a deal entered into by the Government—the city deal proposal—that a transitional arrangement would be desirable. I hope that the Government will revisit that. They may not need legislation to do it—I would not imagine that they would—but I hope that they will look at this again. It seems unfair that an arrangement with the Government could precipitate difficulties of that kind. However, in the light of tonight's debate, I beg leave to withdraw the amendment.

Amendment 42 withdrawn.

Amendment 43 not moved.

Consideration on Report adjourned.

Finance Bill

Second Reading (and remaining stages)

8.30 pm

Moved by ***Lord Deighton***

That the Bill be read a second time.

The Commercial Secretary to the Treasury (Lord Deighton): As noble Lords are aware, this Government came to power in the midst of an economic crisis and inherited the largest deficit in our peacetime history. Since then, the Government have taken resolute action to deal with our debts and get the economy moving again. The Finance Bill before us represents the latest stage in those plans by legislating for measures to deal with the deficit, to encourage economic growth and support businesses of all sizes and to create a fairer and more efficient tax system.

I turn first to growth and competitiveness. The Government have set out our ambition to have the most competitive tax system in the G20. We have already made significant progress towards that goal. In 2013, the main rate of corporation tax will be 23%, far lower than the uncompetitive 28% rate that we inherited. However, we want to do more to relieve the tax burden on business. Clauses 4 and 6 will reduce the main rate of corporation tax to 21% from April 2014, and to 20% from April 2015—the joint lowest rate in the G20, and lower than any comparable EU member state.

It was also announced in Budget 2013 that once the main rate has fallen to 20%, it will be unified with the small profits rate to create a single headline rate of corporation tax—simplifying the system. These changes have been widely welcomed by business groups such as the Confederation of British Industry and the British Chambers of Commerce, but competitiveness is not only about the corporation tax rate. The Government are also supporting the innovative sectors that will drive future economic growth.

Clause 7 and Schedule 1 increase the annual investment allowance from £25,000 to £250,000 for two years from April 2013. That will provide additional, time-limited support for businesses investing in plant and machinery, and will particularly benefit small and medium-sized firms. Clause 34 introduces a new, more generous above-the-line tax credit for large companies' R&D expenditure, providing more visible and more certain relief to those companies engaged in ground-breaking research in the UK. Clause 35 introduces new tax reliefs to support the UK's creative economy, including animation and high-end TV. Those will be among the most effective reliefs available anywhere in the world. As John Cridland, Director-General of the CBI, said:

"Providing further support for our world-beating creative industries … and increasing the rate of the above the line R&D tax credit will … have a material impact on some of the most important sectors of the UK economy".

Creating a competitive tax system goes hand in hand with making sure that companies and individuals pay the taxes they owe. That is why this Finance Bill includes significant new measures to tackle tax avoidance by the small minority of individuals and businesses

who are not willing to pay their fair share. I know that this is an area in which noble Lords have shown great interest.

Clauses 203 to 212 and Schedule 41 establish the UK's first general anti-abuse rule, or GAAR. That is a major new development in UK tax law, and will provide HMRC with an important new tool to tackle abusive tax avoidance. It sends a clear message to those who create and promote abusive tax avoidance schemes that their activities will not be tolerated.

We are also strengthening the disclosure of tax-avoidance schemes—or DOTAS—regime. DOTAS has already been highly successful, with more than 2,000 tax avoidance schemes being disclosed to HMRC since its introduction in 2004. This Finance Bill will further improve the information that promoters of tax-avoidance schemes have to provide about the use of their schemes, making DOTAS an even more effective tool.

The Government will also continue to introduce anti-avoidance rules to address specific types of avoidance in areas of the tax system. This Finance Bill includes legislation to close 15 loopholes which have been used to avoid tax.

Taken together, those measures will raise tax revenues by almost £2 billion up to 2017-18, as well as protecting future revenues. Noble Lords will also be aware that the Government have been at the forefront of international efforts to strengthen tax standards and tackle avoidance by multinational companies. The OECD will be present its action plan for tackling base erosion and profit shifting to the G20 in July.

Tackling tax avoidance is an important part of delivering a tax system that is fair. There is, however, more to fairness than tackling avoidance. This Government recognise the financial pressures that many families are currently experiencing and are determined that hard-working families should be able to keep more of the money they earn. That is why this Government have set an ambition for the personal allowance to increase to £10,000 by the end of this Parliament—an ambition which will in fact be reached one year early, in April 2014. Clause 2 takes an important step towards that ambition, by setting the value of the personal allowance at £9,440 from April this year. This is the largest ever cash increase in the personal allowance, and represents a tax cut for 24 million people. It will save a typical basic-rate taxpayer £267 a year.

This Finance Bill also takes action to ensure that the wealthiest members of society make a fair contribution. It introduces a new annual charge on enveloped dwellings to ensure that owners of high-value properties cannot avoid paying their fair share of tax by placing their property in a corporate envelope.

The Bill legislates for a new cap on certain unlimited tax reliefs from this April to curtail excessive use of these reliefs by high-income individuals who want to reduce their tax bills. The cap will be set at £50,000 or 25% of a person's income, whichever is the greater, ensuring that these reliefs cannot be exploited unfairly.

The Bill reduces the pensions tax relief lifetime and annual allowances to £1,250,000 and £40,000 respectively. This will limit the amount of relief available to the top 2% of pension savers and curb the growing cost of pensions tax relief, which has doubled in the decade since 2001.

By rewarding work and ensuring that reliefs are properly targeted, this is a Finance Bill that delivers a fairer tax system. The Government are committed to greater consultation on tax policy changes. Most of the measures in the Bill were announced at Budget 2012 and have been subject to extensive consultation. We published more than 400 pages of draft legislation for comment in December, and received more than 400 responses. This consultation has ensured better legislation with fewer changes required. I take this opportunity to thank the noble Lord, Lord MacGregor, and noble Lords on the Economic Affairs Committee for their detailed examination of the draft Finance Bill and the thoughtful and constructive comments in the report before us today.

To conclude, the Bill sets out measures to improve our competitiveness, tackle tax avoidance, and help hard-working families and businesses. It builds on the progress that the Government have already made to deal with the enormous debts we inherited and get the economy moving again. The underlying damage to our economy has turned out to be greater, and the road to recovery longer, than anyone had thought. We are, however, on the right path. I commend the Bill to the House.

8.37 pm

Lord MacGregor of Pulham Market: My Lords, I am very pleased to introduce the report of the sub-committee of the Economic Affairs Committee on the draft Finance Bill 2013. In the time available, it is right that I should focus not on the Finance Bill as a whole, tempted though I am to do so, but on our report, much of which is technical but nonetheless important for that. Indeed, my noble friend has referred to the three measures already.

As always, we had to work at speed. I am grateful to our witnesses, professional and official, to Bill Sinton, our committee clerk, and his team, and to our special advisers Trevor Evans and Tony Orhnial, who served us well in previous years and have done so again, not least because of their expert knowledge and experience of HMRC and Finance Bills. I should also like to thank my fellow members of the sub-committee for their knowledge and wisdom, their objective approach and their speedy and intensive work.

I particularly want to emphasise an important and, as it turned out, for us valuable change this year, to which my noble friend has just referred. In December 2010, the Government introduced a new approach to tax policy-making which set out a number of stages at which consultation should be undertaken. It involved a draft of the Finance Bill being published in December, some three months before it was laid before Parliament. This was a very welcome change from many points of view, not least the work of the sub-committee. In previous years, we could start our work only after the Finance Bill had been published. Therefore, we had to work in great haste to have any influence at all on the debates in the other place. Inevitably it was always late in the day. However, outside commentators, including

[Lord MacGregor of Pulham Market]
most chartered accountancy and taxation bodies and one former Treasury Minister, had frequently alluded to the expertise in our committee and the more useful role it could perform.

Consequent to this new approach, this House revised the terms of reference of the sub-committee so that it could start its work earlier in the year and examine the provisions of the draft Finance Bill. The draft Finance Bill was published in December 2012 and we began our inquiry in January 2013. Starting earlier provided us with the opportunity to influence the content of the Finance Bill as published, as well as the Committee stage debates in the House of Commons.

Not least because of the shortage of time, the sub-committee has to focus and this year it examined three topics concerned with the avoidance of tax: the general anti-abuse rule, or GAAR; the annual residential property tax, later renamed the annual tax on enveloped dwellings; and the cap on the availability of certain reliefs. I can touch on only some of the main points.

The sub-committee devoted the majority of its time to the general anti-abuse rule, which is a radical approach to countering the avoidance of tax. The GAAR is narrowly targeted at abusive transactions that fail a stringent "double reasonableness" test; the provisions also include the formation of an advisory panel to agree guidance and give its opinion on the application of the double reasonableness test to a given set of tax arrangements. It followed the recommendations of what became known as the Aaronson study.

Our report considered the narrow GAAR a "reasonable starting point" but recommended a wider post-implementation review after five years, which would look in particular at how the double reasonableness test had been applied in practice, and its deterrent effect. We thought it important that it be made clear to the press and the wider public that the GAAR would not apply to structural issues involving the taxation of multinational groups. These have to be dealt with by reviewing the international tax rules in fora such as the G8, the G20, the OECD and the EU. We argued that the Government need to communicate much more clearly what the GAAR can and cannot achieve.

Since we published our report in March, there has been a huge amount of publicity and debate in Parliament and the press about corporate tax avoidance among multinational companies, with the spotlight on Google, Starbucks and Amazon—not least from the Public Accounts Committee in the other place. Of course, we welcomed—and our report argued for—the lead given by the Prime Minister and the British Government at the recent G8 summit and the decisions taken there. It is important to recognise that the GAAR is only a small part of that and the two are in many ways separate.

I should add that having dealt with Scottish independence, in the spring our main committee embarked on a new topic: "Taxing Corporations in a Global Economy: Is a New Approach Needed?". This does cover these wider issues and we hope to complete our report before the Summer Recess.

We agreed with our witnesses on the importance of guidance from HMRC and the advisory panel on how the GAAR would apply to particular transactions. We recognised that progress was being made in drafting this guidance but we remained concerned that our witnesses felt that it was far from acceptable as it stood at the time of our inquiry. We thought it important for the guidance to include as many examples as possible, illustrating up-to-date arrangements on both sides of the boundary between abusive and non-abusive.

We also thought it important for the advisory panel to have a balance of views and we recommended that the opinions of the panel on whether proposed tax planning schemes are caught by the GAAR should be publicised so that taxpayers can see how the GAAR is being applied. There were also concerns about the application of the GAAR to inheritance tax planning transactions, and a specific concern concerning the imposition of the charge where adjustments arose from the application of the GAAR.

The Finance Bill as published on 28 March was redrafted to deal with the point concerning the imposition of the charge and we were pleased to see this. The finalised guidance was published on 15 April and had been very substantially redrafted, consistent with the recommendations in our report. There was specific recognition that the GAAR could not apply to most structural international tax planning, and the number of examples had doubled, including an increase in the number of inheritance tax examples.

In the Commons debate on the GAAR, our report was quoted with approval. The Opposition had tabled an amendment to require a post-implementation review after two years. I have ploughed through all the *Hansard*s of the Commons in relation to these issues and have noted the number of times that our report was commented on. The Government rejected the requirement to have a post-implementation review after two years, arguing that a two-year period was too short. We agree with this. However, while we welcome the Government's acceptance that the operation of the GAAR will need to be monitored carefully, we continue to believe it necessary to set a timeframe for such a review, notwithstanding the difficulties that the Exchequer Secretary highlighted at Report stage in the Commons. Our report had suggested five years and we recommend that with a change as important as this the Government should commit themselves to a post-implementation review around the five-year point.

The application of the GAAR to the sorts of multinational company tax-planning issues to which I have referred was raised by several Members of Parliament. The tendency to promote the GAAR as a panacea for dealing with the problem of tax avoidance was deplored and we agree with that. "The valuable scrutiny" of the Bill provided by our report was commended. Building on this, the need for the taxation of multinational groups to be tackled in international fora was discussed in the debate on the GAAR and other clauses, including at Report stage. As we know, at the G8 summit the Prime Minister and other G8 leaders set the ball rolling by asking the OECD to draft a template for multinational companies to report the tax that they pay in each of the jurisdictions in which they operate.

It is important that this first step is treated as urgent and that the momentum achieved at the G8 is maintained. We argued for that in our report. The need for the

advisory panel to have a wide balance of views was discussed in the Commons debates and the Exchequer Secretary assured the House that the panel would be broadly based and have commercial expertise to provide reassurance that the GAAR would not be abused, with too much power being placed in the hands of a part of the Executive. We welcome that too.

The annual tax on enveloped dwellings is part of a package of measures to address stamp duty land tax avoidance by using companies to buy expensive residential properties, a practice known as "enveloping". We agreed with our witnesses that the Government's proposals might have been more appropriately designed had they consulted interested parties at the outset, but we recognised that once consultation was under way, the Government responded to the need to exempt certain businesses and other organisations.

We remained concerned about the relief for farm houses and thought that this needed further work. We shared the concern of witnesses about the practical workability of this tax and encouraged HMRC to set out in detail how it would implement the provisions and we recommended a review of its operation after three years. We thought that further work was needed on the capital gains charges on de-enveloping properties. We agreed with a widespread concern about whether the problem that the legislation sought to address justified its length and complexity.

The Finance Bill as published responded to the need for further work on the relief for farm houses and the two clauses implementing this were substantially redrafted. Our concerns around the length and complexity of the legislation were not alleviated by what appeared in the Finance Bill as published. Much of Part 3 of the Bill is devoted to this particular tax. Some 107 pages involving 84 clauses and four schedules is hardly tax simplification.

Finally, on the cap on income tax reliefs, our report expressed concern about the potentially adverse effects of limiting relief for genuine trading losses and recommended a review of the potential impact of this measure in time to inform the Finance Bill debates in the House of Commons. It was disappointing that the Government did not respond to this recommendation. However, the measure's impact on businesses, particularly smaller ones, was raised in the debates in the Commons. We continue to believe that it is important to monitor carefully the potential disadvantage to small businesses of restricting relief for genuine trading and other losses so that remedial steps can be taken if this proves to be a problem.

In conclusion, we were gratified by the extent to which the recommendations in our report were acted on by the Government and also informed the Finance Bill debates in the Commons. We continue to believe it important that the effect of these measures is assessed by way of systematic and independent post-implementation reviews. It is our view that a commitment to carry out post-implementation reviews is as important as the Government's very welcome commitment in their new approach to tax policy-making to consult on the design and implementation of a measure.

To sum up, I believe that the new system overall has proved its worth and that it makes even more relevant the work of the sub-committee on Finance Bills of the Economic Affairs Committee in that it enables much wider debate and consultation with all the many relevant companies, private sector experts and tax and accountancy committees, not least through the medium of our committee, and it gives the House the opportunity to make recommendations to the other place in a timely manner, not, as in the past, rather late in the day. I commend our report to the House.

8.50 pm

Lord Wakeham: My Lords, my noble friend Lord MacGregor has said in his usual clear way virtually all that needs to be said about our report, so I want to add very little. I would like to reflect for a few minutes on the process by which Parliament approves Finance Bills and how it has changed over the years. I have been involved in Finance Bills, year by year, for some 40 years, sometimes as a Minister in the Treasury, sometimes in opposition and sometimes as a Back-Bench supporter of the Government. In some ways things have improved and in some ways they have not, but there really is nothing more important in the parliamentary year than the granting of supply to the Government.

Many years ago, when I had some responsibility for these matters, one of the things that I tried to get agreement to was two annual finance Bills, one at this time of year dealing with rates of tax and major matters and one in the autumn to deal with technical and other smaller matters that otherwise get crowded out. For a number of reasons we were never able to get agreement to that and I do not think it has been pursued since, but it is an improvement that ought to be reconsidered. As a result, the passage of the Finance Bill is done mainly in a bit of a rush just before we rise for the summer.

The big change this year is that we have a draft Bill, which is an excellent innovation. The Minister has given us a good account of it and I congratulate him on what he said. What has also changed substantially in those 40 years is the ministerial representation in the House of Lords. For many years, under both Governments, we did not have a Treasury Minister in the House. That has now changed, and very good Ministers they have been, but quite often we did not have one.

I recall one instance when I was Leader of the House, when a Minister not in the Treasury made a very good speech from the Dispatch Box introducing the Finance Bill. Something made me ask to see the briefing that he had received from the Treasury, and it was an absolute disgrace—I was appalled. I put it in a brown paper bag and sent it to the Permanent Secretary, saying, "If you think this is the briefing a Minister in the Lords should be given to introduce your Finance Bill, it's not my idea". I got a very good letter of apology from him and I think that things have improved since, although of course now we also have Ministers who are able to look after themselves. Still, I hope that the message was received loud and clear in the Treasury that in this House there are many noble Lords who are more experienced than many Members of the House of Commons, and that that experience ought to be used.

Finance Bills are not always treated on their merits; sometimes they get caught up in a wider debate. For instance, a good many years ago the Opposition thought

[LORD WAKEHAM]
that a Conservative Government—this is strange, really—were about to bring in a Bill to change the trade union levy from opting in to opting out. We were told that if this was true, their opposition to the Finance Bill would know no limits. I was government Chief Whip at the time and I knew this not to be true. I eventually managed to persuade the Opposition that it was not true, and the then opposition Chief Whip claimed credit for the whole thing. He had persuaded the Government not to go ahead with their proposal, but he had to agree to give us the Finance Bill in, I believe, one week, which was the object of the exercise in the first place. It was a great victory for their wonderful Chief Whip. The concession was given. The whole purpose of the exercise was to get a very difficult and dispirited Opposition into some sort of order and disciplined enough to pass the Finance Bill, with proper scrutiny but no filibustering, and to get both Houses up before the Summer Recess. I will not mention the name of the opposition Chief Whip but those sitting on the opposition Front Bench know exactly who I am talking about—a great man.

Some things change and some stay the same. One thing that has changed, of course, has been the Economic Affairs Select Committee sub-committee of this House that considers the Finance Bill. That has not always been easy. Gordon Brown, when he was Chancellor, strongly disapproved of it and did what he could to get rid of us because he did not approve of the House of Lords having any say on taxation matters. He was quite wrong. The House of Lords, of course, has an absolute right to discuss and debate Finance Bills in any way it wishes. What we do not have the right to do is to amend or delay them. The terms of reference under which the sub-committee operates are a self-denying ordinance that we, as the House of Lords, have imposed on the sub-committee, which we could change if we wanted to. In fact, I see no particular need to do so.

This year we considered, as my noble friend said, a draft Finance Bill under his excellent chairmanship, and we have done a very good job in a totally non-partisan way. We made a number of practical suggestions, which have found their way into the Finance Bill. They are sensible and often detailed suggestions that will make the legislation work better. One part of our work that I find particularly valuable is the hearing of evidence from experienced practitioners, who make mostly useful suggestions to us on how the legislation can be worked, with plenty of emphasis on the difficulties.

This year our deliberations on the so-called GAAR—the general anti-abuse rule—were especially important. We thought that the Government were right to bring this in, but it was never going to be able to solve all the problems of what we now call aggressive tax avoidance. We explain ourselves in some detail in our report, but I will make a further suggestion to HMRC to tackle these matters. Each new rule sets off clever people to think of ways to avoid it, and the more specific the rule, in some ways the easier it is to find a way around it. I was brought up in a different age, when "true and fair" were the watchwords. In a way, the GAAR seeks to replace them. However, the more we can relate our taxation, and particularly tax planning, so that the taxpayer is under an obligation to demonstrate that the records of the enterprise to be taxed show a "true and fair" view of what has been going on, the sooner aggressive tax avoidance will become yesterday's problem. Years ago, in the Ramsay case in the House of Lords, which was a very special case, the courts gave a very clear signal that they would support that straightforward way of looking at things. The Government have certainly made a start in these matters, but there is still a long way to go.

8.59 pm

Baroness Kramer: My Lords, it will surprise no one that, in my mind, the most significant measure in this Finance Bill is the lifting of the tax threshold to £9,440, shortly to rise to £10,000. More than 23 million people are now paying £700 a year less in tax—that is cash in their pocket—and 3 million of the lowest paid are out of income tax altogether. It has led to a fairer society. I was very pleased to read the ONS study, which named this as one of the key elements in income now being shared more equally between households than at any time since 1986. That is a very significant achievement.

I was also exceedingly pleased by the change in capital allowances—the temporary uplift in the capital allowance from £25,000 to £250,000. From my work with small businesses I am very aware that one of the competitive deficits in the UK is small businesses which have not invested in new technology in their production lines. This gives them a real incentive to do so and to do it now. The timing of that, as we begin to emerge from recession and companies have new opportunities to grow and expand, is absolutely essential and will be an important element in the economic growth that we are all seeking.

I was very privileged to be a member of the Finance Bill sub-committee. I thank the noble Lord, Lord MacGregor, for his fair but effective chairing of that committee. It has been one of the most enjoyable committees in which I have participated; that was shown by the work we achieved and the consensus that existed right across those from different political parties and on the Cross Benches. Like the noble Lord, Lord MacGregor, I emphasise that the work we looked at, particularly on the GAAR, does not cover international and multinational tax abuse. It does not cover issues such as forms of avoidance by deferring income from one year to another, as that is not its purpose. We have to emphasise that, as so often friendly politicians fall into the trap of thinking that the GAAR fulfils that role. It does not and should not. Christian Aid and others asked for clauses to be introduced into the Finance Bill that might do some of that work, but that is not appropriate as this has to be an international effort. I understand that they want a study—which seems right—on the impact of UK tax structures on developing countries. However, that is outside the scope of the Finance Bill.

Ironically, if the GAAR is a success, in a sense we may almost never see it used. Its role is very much one of deterrence. It makes the judgment as to whether a GAAR works quite difficult. However, the review is absolutely crucial. If it turns out that general rules—the

noble Lord, Lord Wakeham, spoke eloquently on this issue—are far more effective in partnership with specific rules in managing the constant attempts of companies to find mechanisms around attempts to get them to pay their fair share of tax, we will need to start to think through whether or not we should consider an anti-avoidance GAAR. Like many others—I notice that the noble Lord, Lord Haskel, who spoke eloquently on this issue, is not here today—I note the importance of including a clearing system, which has been discarded as being too expensive at this time.

I am one of those who are somewhat concerned by the narrowness of the GAAR, not because it is anti-abuse but because we have the double reasonableness test. I understand where the Government are coming from in introducing such a test, but I have two concerns. One is that there is quite a lot of deference by the Government to the accounting profession. It would be wise sometimes to be more cynical and challenging to that profession around these issues. Also, if it is taken to its extreme so that nothing is ever an abuse because somebody can always come up with a reason as to why it has some economic basis, this whole exercise will have been in vain. Therefore we need to look at the application; that is a very particular vulnerability, and one in which we have to have an ongoing watching brief.

I will move quickly to the issues around stamp duty, land tax avoidance and the annual residential property tax which we also examined. I know the legislation is complex, but I believe that it is a crucial step. For many people the unfairness of watching those with very large and expensive properties avoiding the stamp duty and the inheritance tax that they bear on their smaller properties has tended to undermine the sense of common bond that is necessary in our tax system. My concern is less about what is in the legislation than the fact that, as yet, it does not capture some of those opportunities for abuse—for example, the use of the Cayman Islands for trusts and companies that have also been used by those seeking to avoid those kind of taxes. If I am wrong, I should be glad for the Minister to correct me. There are still loopholes and none of us wants to see them exploited.

I also found myself defending the Chancellor over his cap on income tax relief. This is not an approach which is palatable to everybody. For many years, I lived in the United States where the alternative minimum tax plays this kind of role. No matter how people choose to invest—whether or not it is in economic growth—on the basis of fairness, I believe that everyone should participate in the income tax system, and the tax on reliefs gets us much more into that territory. Fairness matters, especially in a time of austerity—we are all in this together.

This issue has been widely debated and there is little else that I can add to the speeches that came before mine, except to say that I think this has been an important Finance Bill which helps to position us for a fairer society, as well as one that is growing economically.

9.06 pm

Baroness Wheatcroft: My Lords, I echo the words of my noble friend Baroness Kramer in saying what a pleasure it was to sit on the committee chaired by the noble Lord, Lord MacGregor. This is not a subject that everybody would find intensely intriguing, but our deliberations were always entertaining, as well as interesting.

The most important thing that this Government have done on income tax is to make sure that the wealthiest pay the most. The top 1% now contributes more to the coffers of the country than in the past. This is a principle to which we need to adhere and I am glad to see that it will continue. The theory is—and I am sure it will be proved right—that, even as the top rate comes down, we will get more income from the wealthy. There are ways that they can move their domicile and their tax status, should they find their surroundings uncongenial.

However, we need to go a lot further in simplifying tax. My noble friend Lord MacGregor referred to the Office of Tax Simplification. It was created in July 2010, though I fear that tax has not become much simpler since. Indeed, the latest edition of *Tolley's Tax Guide* now runs to 16,220 pages. The individual guides on income tax, corporation tax and capital gains tax each run to more pages than *War and Peace*. There must be progress that we can make there; I would like to think so.

Moving to the Finance Bill, the two issues I wish to address are the GAAR—which has been much spoken about—and the income tax relief limit. The GAAR is going to be a disappointment to a lot of people, and we should not be surprised by that. The hostility to the way in which many multinationals organise their tax affairs runs deep. The hope is that the Government are doing something about it. The GAAR cannot and does not attempt to do that, nor can the Government do so alone. It is right that the route that we are taking is through international organisations such as the OECD and the G8 because, as a country, we cannot move unilaterally to deal with the taxation of multinationals.

Winston Churchill, always a good man to quote, said:

> "We contend that for a nation to try to tax itself into prosperity is like a man standing in a bucket and trying to lift himself up by the handle".

It is a good image. If we go out on a limb and create a tax regime that is inhospitable to other countries' companies, we will be the ultimate losers. We need a regime that is fair, and the only way that this can be done is on a multinational basis. We are going in the right direction and leading the discussion, but I am under no illusion about our chances of success any time soon.

In the mean time, what is to be done? The debate in the other House spent a long time discussing the possibility of companies having to declare the amount of corporation tax that they pay in this country. The Government do not want to go in that direction. However, they could encourage a degree of boasting. Would it not be a good idea if companies were encouraged to declare proudly how much tax they were paying in this country? I do not mean fudging it by folding into their total tax bill VAT, national insurance and anything else that they can think of. We want to know about corporation tax. It would be very good if some companies followed the lead of RTZ, for instance, and spelled out

[Baroness Wheatcroft]
proudly what they were paying, to see whether that would win them a few brownie points from consumers. It was intriguing to see how Starbucks eventually reacted to public fury over its tax bill. While proclaiming all along that it was doing nothing wrong—which was absolutely true in legal terms—it felt obliged to offer a bung of £25 million. That was a strange thing to do in the circumstances: "I'm not guilty but, just in case I am, here you are".

The GAAR cannot deal with this. As my noble friend Lady Kramer said, it will not be the easiest thing to operate. A double-reasonableness test is a hard one to get over. Not only must an action be seen to be reasonable, even if it is not in some minds reasonable, but the individual undertaking the action need only contend that he had a reasonable belief that it was a reasonable action for the action not to fall foul of the GAAR. One of the most interesting sessions that our committee had was when two tax counsel came before us. Their eyes lit up at the prospect of the work to come. These things will be contested.

Nevertheless, it has to be a step in the right direction, and it is already beginning to change behaviour. I am told that fewer questionable schemes are being put forward. It is good to think that the creativity that has gone into finding ways around the tax laws might be used in more positive ways. Avoidance on the aggressive scale that has been in evidence is against the interests of the country, and it is absolutely right that a measure such as the GAAR should be brought in to try to deal the worst cases of abuse.

The other item in the Finance Bill that I will talk about probably needs very speedy changing. It is the limit on reliefs. I understand why the Government feel that it is right to limit the amount of tax relief of which any individual can make use. However, the law of unintended consequences could mean that entrepreneurs are restricted in what they do at a time when we need businesses to flourish, and young businesses in particular to grow and invest. It would be perverse to bring in something that could involve an individual facing a tax bill that is higher than the profits from their business. The Minister may have seen the evidence put forward by the Chartered Institute of Taxation, which is deeply concerned about how this may work. In the end, our committee recommended that there should be a review of these provisions. It was perhaps unfortunate that the Government did not follow their own tax consultation framework in driving through the proposals. Therefore, a speedy review is a very good idea.

9.14 pm

Lord Bilimoria: My Lords, I declare my interests in this area. I remember when qualifying as a chartered accountant it was very clear that tax avoidance was legal and tax evasion was illegal. Recently, there has been a huge public outcry about avoidance having escalated to abuse and companies operating within the law have been vilified.

The tax gap has been estimated at around £32 billion. Within that tax gap, it is estimated that the annual cost of tax avoidance is around £5 billion and the annual cost of tax evasion about £4 billion. The official definition of tax avoidance is,

"bending the rules of the tax system to gain a tax advantage that Parliament never intended. … It involves operating within the letter but not the spirit of the law. Tax avoidance is not the same as legitimate tax planning".

Tomorrow an event will be held by the All-Party Parliamentary Group for Social Science and Policy entitled, "What can policy makers do to reduce tax avoidance by large companies?". The invitation letter to the event states:

"Tax avoidance by multinational companies such as Google, Starbucks and Amazon has sparked a public outcry. A recent poll commissioned by ActionAid found that 80% of people want the government to take tougher action. In 2012 Amazon paid just £2.4m of UK corporation tax on UK sales of £4.2bn—less than the £2.5m it received in government grants. Thames Water paid no corporation tax and pocketed a £5m credit from the Treasury. Every pound lost through tax avoidance could have been spent on protecting public services—yet last year HM Revenue & Customs wrote off £5bn in tax as uncollectable. It estimates the … 'tax gap' at £32bn"—

as I said—

"while many tax experts believe the … figure is twice that".

I thank the noble Lord, Lord MacGregor, and the Economic Affairs Committee, of which I was proud to be a member, and all the officials—Bill Sinton and the team. It was a tremendously constructive and pro-active committee in which to take part.

In his opening speech, the Minister said that the objectives are to improve competitiveness, tackle tax avoidance and help hard-working families. The noble Lord, Lord MacGregor, made the very important point that, for the first time, we as a committee were able to meet in advance of the Finance Bill being published and look at a draft version. I congratulate the Government on allowing us to do this and thus take advantage of this House's expertise.

There is no question that the intentions of the GAAR—the general anti-abuse rule—are good. However, does the Minister accept that it is too narrowly targeted and focused through the double reasonableness test, and therefore will not catch the Googles, the Amazons and the Starbucks? Do the Government accept, as the noble Lord, Lord MacGregor, said, that they need to communicate very clearly to the press and public that this will not happen, although the intentions are very good, given that people have the expectation that now that the GAAR is there, all this tax avoidance—tax abuse on a large scale—will disappear?

As the noble Lord, Lord MacGregor, said, the important point is that this needs to be tackled on internationally. Are the Government confident that they will be able to do that on an overall basis? Furthermore, I do not think that the public understand clearly where the tax that is generated comes from or the composition of the tax pie. Will the Government confirm that they will publish tax information to enable everyone to understand where the tax they are paying is going so that they understand clearly that corporation tax actually makes up a very small proportion of the tax that is generated in this country? The companies that are being attacked should pay more corporation tax but are they being sufficiently congratulated on the employment they are generating,

the taxes generated through that employment, the innovation they are generating and the business they are bringing to this country? Are things being looked at in proportion? However, as the noble Baroness, Lady Kramer, said, there is no question that the GAAR should at the least be a deterrent and send out a signal that tax avoidance which becomes abuse is not acceptable.

The cap on income tax reliefs was not consulted on properly by the Government. It was ill thought through and I agree with the noble Baroness, Lady Wheatcroft, that it risks restricting reliefs for genuine trading and other losses. In fact, she described it as perverse. I request that the Government do a more detailed review to get a better understanding of the effect of the cap because it could hamper business investment. The Government did very well in consulting on the GAAR, but unfortunately I do not think that they consulted adequately on the caps and reliefs. The noble Lord, Lord MacGregor, spoke about simplification and the noble Baroness, Lady Wheatcroft, spoke about *Tolley's Tax Guide* getting bigger and bigger. Surely the Minister would agree that the Government should be working towards simplifying tax. Could he confirm that?

President Clinton spoke here in London a few years ago and I remember him clearly saying that, increasingly, we live in a world that is more interconnected and integrated. Now the time has come to work together to tackle this tax abuse on a global scale. Better transparency is the only way that we can deal with it. The noble Lord, Lord Wakeham, as a fellow chartered accountant, summed it up beautifully when he talked about being true and fair. That is what we were brought up to do. Audit reports had to reflect a true and fair view. We have to aim for that.

Once again, I thank the committee, the noble Lord, Lord MacGregor, and the officials. I also thank the Government for consulting and allowing us to meet in advance so that the House of Lords can play a role and use our expertise, even though we have no power whatever over financial matters. Here is an opportunity for us to give our views in advance, and to have them listened to and taken into account by the other place, so that, as the Minister said, we have a tax system that will tackle avoidance, is fair and, most importantly, is competitive, transparent and simple.

9.22 pm

Lord Bates: My Lords, I, too, pay tribute to the Select Committee on Economic Affairs for its excellent report. I did not serve on that committee, and I speak in the debate not because I want to speak about the report but to clarify Her Majesty's Government's position on another matter, which relates to hard-working families and specifically has to do with the position of the married couple's tax allowance.

Page 41 of the Conservative Party manifesto, way back in 2010, states a desire to,

"make Britain the most family-friendly country in Europe"—

and specifically said that it would,

"end the couple penalty in the tax credit system",

which it has largely done through the introduction of universal credit. Next, it said that it would,

"recognise marriage and civil partnerships in the tax system".

This is a day when we have been celebrating marriage and its role in society. I welcome the Bill that has passed today for keeping marriage relevant and updated by reflecting the way in which some tax-paying citizens choose to live their lives in this country. That is a good thing. When my noble friend Lady Stowell introduced this important Bill at Second Reading, she set out clearly Her Majesty's Government's position, when she said:

"Marriage remains, as it has for centuries, the way in which most people choose to declare their commitment publicly and permanently to the person they love. When we hear two people exchange their marriage vows, whether in a place of worship or at a registry office, we know that we are witnessing a couple commit to the kind of values that we associate with the special enterprise of shared endeavour—loyalty, trust, honesty and forgiveness. We know that through marriage existing families are extended, as is their commitment and support to new family members. We think that it is a good thing".—[*Official Report,* 3/6/13; col. 938.]

The tax system is a very useful tool for Governments to recognise things which they regard as a good thing. Twelve million people, or perhaps more, as a result of today's legislation are part of that good thing—giving strength to their families, their communities and society.

Where are we vis-à-vis that commitment made in the manifesto? We had an unexpected turn last week. Following what was described as a lunch,

"with political reporters at Westminster",

a report appeared on 11 July in the *Daily Telegraph*. It reported the Chancellor as saying:

"I have always been committed to introducing a married couples' tax break ... David Cameron campaigned to be leader on that promise and I was his campaign manager".

It went on to report the Chancellor as saying:

"I am absolutely committed to introducing it … and I think you can expect to see it in the Autumn Statement".

That is all very encouraging. Some of us who have experienced the way politics works will perhaps be forgiven if we seek further general reassurance from the Minister, as it is possible that many a word of truth has slipped between the dining table of Westminster and the front-page splash of a national newspaper.

Can my noble friend clarify the position of Her Majesty's Government in relation to the proposed married couples' tax allowance in the Autumn Statement later this year? I particularly want clarification because we know that this was in the Conservative Party manifesto. We know that it did not make it through the negotiations with our Liberal Democrat coalition partners into the coalition agreement. In the same report of 11 July in the *Daily Telegraph*, there was a quote in response to this conversation at lunch from the Deputy Prime Minister, who ridiculed the proposals as,

"patronising drivel that belong in the Edwardian age".

Later on in the report, clarification was sought from Downing Street—a great exercise in journalistic reporting; there was triangulation going on at a great level. The Prime Minister's official spokesman said that the Prime Minister is a "big believer in marriage" and,

"That is why he thinks it is important to recognise the family—

and marriage—"in the tax system".

[LORD BATES]

There is a clear position there, perhaps a shift. I would very much appreciate if the Minister could help clarify and enlighten us.

9.27 pm

Lord Davies of Oldham: My Lords, I shall leave that last contribution for the Minister to answer because it would be ill thought of me to intrude on coalition difficulties over an issue of that kind. I am sure the Minister will delight in replying to the noble Lord, Lord Bates, in a moment. I want to express, first, the gratitude of this side of the House to the Economic Affairs Committee and its chair the noble Lord, Lord MacGregor, for the work that they have done in this very important area. As the noble Lord indicated, there have been some advantages this year in being able to address these issues somewhat earlier than the actual arrival of legislation.

It has given them time also to concentrate in particular on the general anti-abuse rule. As the noble Baroness, Lady Wheatcroft, indicated, the proposals are sketchy enough at present that it is right that we return to evaluation of them fairly rapidly. I understand the Government's resistance to the opposition amendment in the Commons on this matter for two years. However I take some succour from the point made by the noble Baroness, Lady Wheatcroft, that we will need to look at this carefully, not least because the problem with the GAAR is that it is a British concern but an international problem. It will work effectively only if we are able to broaden the similarities of other countries with regard to the operation of corporation tax and so on in their countries in order to make it effective.

The noble Lord, Lord MacGregor, indicated that although the committee had probed the Government, it had not got full clarity from them about how the GAAR would work. None of us is surprised by that—these are early days. However, none of us ought to underestimate either the enormous pressure from outside this House on the Government to do something about the scandals that were revealed of the avoidance of taxation—legitimate avoidance—by the multinational companies that have been identified, or the country's obvious belief that fairness requires them to meet their dues in countries where they are making their profits and where they have vast numbers of customers.

We all recognise that this is a big challenge of the multinational age, which presents all Governments with very specific issues with regard to taxation. I am very grateful for the progress that the committee made on this matter but this is an enduring problem for us all and it will be recognised that the work done so far has merely proved a trailer for the major work that needs to be done. After all, Mr Aaronson, who commented on the general anti-avoidance rule, said that the scheme set out only to tackle egregious, unaggressive tax avoidance schemes. That indicates how narrowly focused it appears to him, as an expert. We need some breadth to it if it is to prove effective.

I welcome the contribution of the noble Lord, Lord Wakeham, although I did wince at the concept of two finance Bills a year, as I am sure many Members of this House will and even more will at the other end. He made a very real and proper call for companies to be true and fair in their reports and in their responsiveness to the need for taxation. However, the problem there again is that we are not talking about the perspective of a decade or so ago but about a situation now where a great deal of British expenditure is on multinational companies in which these particular concepts may look a little too Anglo-Saxon, or even too British, to strike home with them. We clearly need a strategy that is embraced in our legislation but which fits with what other major powers, particularly of course the Americans, are able to do with regard to multinational challenges.

The Minister presented a short synthesis of the Finance Bill and I think we are all grateful for that—not many Ministers have been able to describe a finance Bill in seven minutes. I am not going to criticise it for much more than seven minutes—indeed, I hope to criticise it in much less time—but criticise it I will. This Finance Bill does nothing to boost growth or improve living standards. Growth, as the Minister will recognise, is at an abysmal level and has been since this Government came to power. We are making the slowest recovery from a recession in the past 100 years and it will not do for the Minister to suggest that the Bill is apposite to our present circumstances. It is not.

The noble Baroness, Lady Kramer, commented on the fact that one element of the Bill gives some tax relief to the lowest paid in our society, but real wages have fallen by 2.4% in the past four years. That is a reflection of the fact that people are getting poorer at work—not the people who have to pay the bedroom tax and who the Government are able to challenge in those terms, nor those people who will be hit by the withdrawal of benefits, but people at work. They are poorer under this Government and it will not do for the Minister to ignore that fact; nor will it do—after all, he takes considerable responsibility for infrastructure—that the Government's record on that at the present time is appalling. Of course, he was not directly in his post when the Government managed to produce only one school out of the 216 that the Secretary of State promised would begin under his programme of expansion.

The IMF made clear to the Government what could be done with investment. It said that £10 billion in social housing could produce circumstances in which 400,000 houses could be built and 600,000 jobs could be created. What have the Government done on that front? Nothing that any of us could notice. Meanwhile, this Finance Bill also causes affront to our people. This is not only over the question of how strongly it will address the issue of corporate taxation for the multinationals and those who do not pay their proper tax. How can one talk about fairness in our society when millionaires are singled out for the top-rate tax cut, and when hedge funds get a cut on their investment position as a result of the Bill?

The Government are giving away with one hand to the very well-off in our society, while the rest of the nation quakes under the strains of the Government's failure to emerge from recession. That is why the Finance Bill, which we can merely comment on and not amend, has such weaknesses that the Minister

surely ought to spend the next few minutes producing a rather more articulate defence of it than he did in his opening remarks.

9.36 pm

Lord Deighton: My Lords, I thank all noble Lords for their excellent and insightful contributions. I will do my best to respond to them. Let me take first the attack of the noble Lord, Lord Davies, on current government policy. When I entered the Treasury I found myself confronted with the financial state which this Government inherited from the previous Government. I find it quite difficult to know where to begin in comparing and contrasting a government strategy which left this nation financially on its knees with the steady and consistent plan which this Government have put in place to recover the situation.

This Government have succeeded in reducing the deficit by a third, and have the confidence of international markets. This Government have put in place a growth strategy in terms of reducing taxes, and making sure that this is an economy in which investors want to invest and companies want to grow. This is the basis for sustained improvement in the decade to come. I agree that issues on infrastructure need addressing. This is because over generations—I think that this really applies to many previous Governments—we have not put in place the long-term approach to sorting out the economic infrastructure that was needed. This Government deserve credit for actually taking the right long-term steps to sort that out, which I hope will put in place a regime that will work very effectively for many years ahead.

Let me get to the specifics of this particular debate and the Finance Bill. The Bill reflects the Government's continuing commitment to making tax policy in a transparent manner through improved consultation. Many measures in the Bill have been subject to extensive consultation and scrutiny. I take great comfort from the comments at large that the consultation process has been extraordinarily effective. My noble friends Lord MacGregor and Lord Wakeham made the point that we gave the Committee the ability to look at the draft and at the changes we put in place. I think that that is progress all round, which we should enjoy. That robust approach to making tax policy ensures that we can effectively legislate to restore the economy to growth and address the enormous deficit that was inherited. This Finance Bill is part of our plan to put the country on the right path through supporting enterprise, helping families and ensuring that everybody pays their fair share of tax. Part of this plan includes the biggest ever cash increase in the income tax personal allowance, as my noble friend Lady Kramer noted. In her view, that was the most important part of the Bill.

However, we also take firm action against those who do not pay their fair share of tax. There has been quite a detailed discussion of GAAR in this evening's debate. Given the amount of consultation that has gone on around it and the debate that we have had, I am not sure that there is much more I can add. Insightful comments on it were made by my noble friends Lady Wheatcroft and Lady Kramer and the noble Lord, Lord Bilimoria. GAAR is part of an overall approach and works together with specific tax rules. It does not attempt to address the broader question of the tax behaviour of big multinational companies, which I think we all agree and understand needs to be dealt with through international collaboration. I am proud to be part of a Government who are leading on that issue. We will hear later this week the OECD's proposals to the G20 to move forward on these issues following up on the ball that we rolled into play at the recent G8 meeting, so that is well under way.

On when we should review GAAR, we rejected the two-year suggestion. On whether five is the right number, the Government reserve the right to keep all taxes under review. I agree with the general sentiment that the way this works needs to be bedded into the system and therefore needs particularly careful management. Overall, I think that the Government's approach of driving down taxes generally to make this economy more productive, and avoiding the Winston Churchill problem of the man in the bucket, is the right one. Combining that with our rigorous approach to the collection of taxes that are due is exactly the right balance for this age. I wish that our predecessors had got to grips with those two important issues much earlier so that we did not have to deal with them right from basics now.

I also agree with the general sentiment expressed by the noble Baroness, Lady Wheatcroft, and the noble Lord, Lord Bilimoria, that, in an ideal world, we would drive more simplification into the tax system. It is an easy concept to embrace but a difficult one to put into practice given everything that we are trying to accomplish. There is an Office of Tax Simplification whose mandate it is to cause some of these things to happen.

On whether we have done quite the right thing on tax reliefs, the Government are committed to supporting growth and we take action to support business tax relief in an effective way, but it cannot be without limit. We promote business investment through targeted tax relief schemes—some examples of those are the Enterprise Investment Scheme, the Seed Enterprise Investment Scheme and the venture capital trusts—and, as I have said previously, we are driving down the overall level of taxation. The balanced package leaves companies of all sizes in a very attractive tax environment which should be good for the growth of the economy.

In response to the question asked by my noble friend Lord Bates about tax relief for married couples, I can confirm that my right honourable friend the Prime Minister made a commitment to recognising marriage in the tax system. We intend to announce our plans shortly and it will be at the earliest opportunity. My noble friend was absolutely right to quote my right honourable friend the Chancellor, who said in an interview a few days ago that,

"the Government is committed to introducing it and I think you can expect to see it in the Autumn Statement".

I hope that that is a strong enough commitment. It sounds pretty good to me.

[Lord Deighton]

As noble Lords are well aware, this Government inherited enormous debts. It was essential that we addressed that and got the economy moving. We have taken difficult decisions and resolute action to tackle the challenging legacy that we inherited. The Finance Bill 2013 is part of the Government's plan to put this country back on the right path, through supporting enterprise, helping families and ensuring that everyone pays their fair share of tax. I commend the Bill to the House. I beg to move.

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

Draft Finance Bill 2013: Economic Affairs Committee Report

Motion to Take Note

9.46 pm

Moved by ***Lord MacGregor of Pulham Market***

That this House takes note of the report of the Economic Affairs Committee on the Draft Finance Bill 2013 (1st Report, Session 2012–13, HL Paper 139).

Motion agreed.

House adjourned at 9.47 pm.

Grand Committee

Monday, 15 July 2013.

3.30 pm

The Deputy Chairman of Committees (Baroness McIntosh of Hudnall): Good afternoon, my Lords. I remind the Committee that if there is a Division in the Chamber the Committee will adjourn for 10 minutes after the sound of the Division Bell. I was invited to inform noble Lords that should they so wish, the afternoon being as bright and sunny as it is, they may remove their jackets.

Public Bodies (Abolition of Victims' Advisory Panel) Order 2013

Considered in Grand Committee

3.30 pm

Moved by ***Lord McNally:***

That the Grand Committee do report to the House that it has considered the Public Bodies (Abolition of Victims' Advisory Panel) Order 2013.

Relevant documents: 1st Report from the Secondary Legislation Scrutiny Committee, 1st Report from the Joint Committee on Statutory Instruments.

The Minister of State, Ministry of Justice (Lord McNally): My Lords, that is enough radicalism for one afternoon.

This order abolishes the Victims' Advisory Panel, which I will refer to as the VAP, using powers in the Public Bodies Act 2011. This Act followed the 2010 review of all arm's-length bodies, which was conducted to increase transparency and accountability, to cut out duplication of activity and to discontinue activities that were no longer required.

As part of this review, we proposed to abolish the VAP, since its functions are no longer required and duplicate activity elsewhere. There is a clear overlap between the work of the panel and that of the Commissioner for Victims and Witnesses, also known as the victims' commissioner, who has a statutory responsibility for promoting the interests of victims and witnesses and encouraging good practice in their treatment. That is why the VAP is one of the bodies specified in Schedule 1 to the Public Bodies Act 2011. The Secretary of State has the power to abolish those bodies by order, and it is such an order that we are debating today.

I will now cover briefly the background to the establishment of the VAP and the panel's membership between 2006 and 2009, before explaining why the Government consider that this order to abolish the VAP is necessary and meets the criteria set out in Section 8(1) of the Public Bodies Act to improve the exercise of public functions.

The VAP was originally established in 2003 as a non-statutory panel to enable victims of crime to have their say, both in the reform of the criminal justice system and in related developments in services and support for victims of crime. The functions of the VAP were subsequently set out in Section 55 of the Domestic Violence, Crime and Victims Act 2004. The VAP was expected to advise Ministers and officials of the views of victims of crime, with particular reference to their interaction with the criminal justice system and its agencies. The panel was also to offer views on the prevention of crime from a victim's perspective. The Secretary of State was required to consult the panel on appropriate matters concerning victims and witnesses of criminal offences or anti-social behaviour. Where the Secretary of State consulted the VAP in any particular year, the panel was expected to prepare a report to be published and laid before Parliament.

The Coroners and Justice Act 2009 made it a requirement for the victims' commissioner to be appointed to, and act as, chair of the panel. The Act made no changes to the core functions of the VAP. Between 2006 and 2009, the VAP consisted of around 10 volunteer members, all of whom had either experienced crime first-hand or had provided support to victims. Of those original members, four agreed to extend their tenure beyond July 2009 to support the work of the Government and of Sara Payne as the victims' champion, until the first victims' commissioner, Louise Casey, was appointed in May 2010.

I thank the Secondary Legislation Scrutiny Committee for its report on this order. I welcome its conclusion that this order does serve the purpose of improving the exercise of public functions and is in compliance with the test set out in the 2011 Act, which I will set out in detail shortly.

I reassure the Committee that the Government did not prejudge the process by winding down the panel before the 2011 Act came into effect. As Louise Casey announced her decision to resign as Commissioner for Victims and Witnesses in October 2011, during the consultation on our public body reforms, the Government considered that the future of the commissioner's role should be decided before taking a decision on the future of the VAP. Accordingly, no final decision was made on the abolition of the VAP until it was clear that a new commissioner would be appointed. While the Government decided not to undertake any further recruitment to the panel during the uncertainty around the panel's future, this did not prevent potential future recruitment if necessary.

With the appointment of a new victims' commissioner, who has a statutory duty to promote the interests of victims and witnesses, we consider that a statutory obligation to appoint and consult a small advisory panel on victims' issues is no longer the right approach. The commissioner provides an effective and flexible approach to ensure that a broad and diverse range of victims' views is independently represented to government.

The noble Baroness, Lady Newlove, the current victims' commissioner, took up her post on 4 March of this year following her appointment on 21 December 2012. She has already met many victims and their families across England and Wales, as well as the criminal justice agencies, to seek their views. This follows the work of Louise Casey, the previous commissioner, who undertook a wide remit of consultation and

[Lord McNally]
provided advice and challenge to government concerning the treatment of victims and their families and the services they received.

Given the role now played by the victims' commissioner, we consider that the abolition of the VAP improves the exercise of public functions for the purpose of Section 8(1) of the Public Bodies Act 2011, such that making this order is justified. I say this for the following reasons.

First, on efficiency, abolishing the VAP will reduce the duplication of resources and activity in respect of convening panels and their administration. The victims' commissioner will undertake a wide range of activities designed to engage the view of victims. This allows for a much greater breadth and depth of views to be obtained, which the commissioner will feed back to government and its agencies on a regular basis to inform and shape policy development and service delivery for the benefit of victims.

Secondly, on effectiveness, the abolition of the VAP will not limit the opportunity for victims to articulate their opinions about the criminal justice system and their position within it. The post of victims' commissioner is an effective way of ensuring that the views of victims are sought and can influence the development of justice policy. During her tenure, the previous commissioner, Louise Casey, met and received correspondence from hundreds of victims who shared their views and experiences. She used this feedback to inform her advice to government, including reports and a review of the needs of families bereaved by homicide.

Thirdly, on economy, the abolition of the VAP will mean that the Government will not need to recruit and run a new panel, which has in the past cost about £50,000 a year. We believe that this additional spend is unnecessary, given that the work which the panel previously undertook clearly falls into the remit of the victims' commissioner.

Fourthly, on securing appropriate accountability to Ministers on issues relating to victims and witnesses, this still remains through the role of the victims' commissioner. The victims' commissioner promotes the interests of victims and witnesses, as is her statutory duty, and is accountable to the Secretary of State for Justice. The commissioner is required to produce an annual report for the Secretary of State for Justice in her role and the work that she has undertaken, to be shared with the Attorney-General and Home Secretary, which is published and laid before Parliament.

Further, we are satisfied that the abolition of the VAP, for the reasons already stated, does not remove any necessary protections. Abolition of the panel does not affect the exercise of any legal rights or freedoms either directly and indirectly. Victims of crime will be able to have their voice heard through the channels operated and promoted by the commissioner and the Government.

The victims' commissioner regularly meets the Minister for Victims and the Courts and the Secretary of State for Justice. She has publicly stated that she sees her role as providing challenge to government where the criminal justice system or proposed reforms to it fail to meet the needs of victims and their families, as well as working with the Government to improve the criminal justice system.

The appointment of the noble Baroness, Lady Newlove, as the new victims' commissioner last December was a key part of this Government's wider commitment to strengthen the voice of victims and to improve the experience of victims and witnesses in the criminal justice system. For example, we have consulted on a revised victims' code, which includes reference to the victim personal statement for the first time giving victims a louder voice in criminal proceedings. The victims' commissioner plays a leading role in ensuring that as we deliver these reforms the voice of victims and witnesses is represented to government. I know that the noble Baroness, Lady Newlove, has confirmed in a letter to noble Lords circulated ahead of this debate that she considers the victims' commission to be best placed to promote victims' and witnesses' needs and to represent their views to government. I hope noble Lords will agree with the current victims' commissioner that the victims' commissioner is able to fulfil this role fully and effectively without the VAP, a body that duplicates her activities. I beg to move.

Lord Beecham: My Lords, public outrage about the abolition of the Victims' Advisory Panel has been conspicuous by its absence, and the Opposition and I have no qualms about the Government's decision to abolish it in the light of the appointment of successive commissioners. For that matter, all of us who heard it were deeply moved by the speech made by the noble Baroness, Lady Newlove, on these issues; I think it was her maiden speech. We have every confidence in her interest, palpably stemming from those tragic personal circumstances to which she referred, and her ability to be an effective voice for victims and a conduit to government.

However, I note that in the Explanatory Notes to the order the Government cite three criteria which they purport to apply to all bodies that are being considered for abolition and find that none of the criteria were met in this case, including a requirement for political impartiality. Having said that, and I repeat that this is no reflection on the noble Baroness, I find that a slightly surprising conclusion in respect of this position because there are potentially significant issues in this area, such as restorative justice, community sentencing, which is now very much part of the political debate under the Offender Rehabilitation Bill, and criminal injuries compensation, which is a sensitive political issue where changes were recently made. No doubt the commission will comment on all these in due course. However, despite the unique qualifications of the noble Baroness, it might be thought to be better in future appointments to have somebody who is less engaged with the political process.

That view is somewhat reinforced by a recent article in the Law Society *Gazette*, which records that it thought that the views of the commission should be sought about some of the matters that are currently being debated, including the impact of the *Transforming Legal Aid* proposals on victims and witnesses and concerns about defence work or prosecution work

being carried out by, as it put it, inadequate prosecutors. It approached the commissioner—it e-mailed her—and got a telephone call back saying that she had not commented. That was fair enough. The caller repeated that the issue had not been commented on, and matters were left there. However, it turns out that the person at the other end of the phone was a press officer at the Ministry of Justice. This gives rise to the question whether the staffing and support for the commissioner—any commissioner, not just the present incumbent—should be a little further removed than the Ministry of Justice, which of course is responsible for many of the issues with which the commissioner will have to deal.

I do not raise this in a way that is critical of the noble Baroness, but it raises the issue that future appointments need to be considered. The way in which resources are made available to the present commissioner might be looked at again, given that she may feel on called from time to time to be critical of the policy of the Government of the day, and to have someone working on that line from within the department might be a little difficult. I put it no higher than that. Perhaps the Minister might care to consider that issue in due course with this commissioner, and perhaps it should be borne in mind with future appointments. We are content that the order should be passed.

3.45 pm

Lord McNally: My Lords, I am slightly surprised that the noble Lord raised the question of political appointments, even in the terms in which he couched his remarks. I find it extraordinary that somehow we back away from making appointments from the rich vein of political talent that is in the House. The idea that someone has to be politically neutral to be a victims' commissioner is, I think, absurd. I can think of some likely Members on Labour Benches, including the noble Lord, who would make an excellent victims' commissioner. The noble Lord is tempting me to express my views on the Cross-Benchers. I have always said that I find it extraordinary that people can reach 60 or 70 years of age without deciding about their political opinions, but that goes way beyond this brief.

I do not accept the idea. As the noble Lord conceded, in the choice of the noble Baroness, Lady Newlove, we have somebody who has tragic personal experience but beyond that has revealed a capacity to campaign on this issue and link with the victims of crime, which makes her an excellent choice.

I have more sympathy with the noble Lord's idea that if you ring up the victims' commissioner and get an MoJ press officer, that probably needs to be looked at. We are, for very good reasons, bringing within the MoJ family various bodies that carry out independent and arm's-length functions. How we handle that is important. We must make sure that to the public dealing with them, the arm's-length nature of their independence is underlined, while we get the benefit of the kind of back-office co-ordination that makes sense of these things.

The basic point is that we have already brought forward a range of measures that are designed to ensure that the voice of the victim is strengthened. These include consulting on a new victims' code, which includes an entitlement for victims to give a victim personal statement when they give evidential witness statements for the first time, ensuring that the victim can describe how the crime has affected them; and announcing the piloting of a recorded pre-trial cross-examination of vulnerable and intimidated victims and witnesses to help them give their best evidence in court. As I have said, the appointment of the noble Baroness, Lady Newlove, as the victims' commissioner gives victims a national voice and has, as the noble Lord, Lord Beecham, said, cross-party approval.

I understand that the noble Baroness has Press Office support as victims' commissioner and has a dedicated press officer who works part-time. However, that press officer is based in the MoJ. Whether that has caused the confusion or the call was from part of the MoJ press team, I do not know; I have only just heard the point made. The press support which the noble Baroness will receive is fully independent of the MoJ, although it is within our building. I appreciate the noble Lord's point—it will be duly recorded and pondered upon—and I am grateful for his more general support for this action. I commend the order to the Committee.

Motion agreed.

Public Bodies (Merger of the Gambling Commission and the National Lottery Commission) Order 2013

Considered in Grand Committee

3.53 pm

Moved by ***Lord Gardiner of Kimble:***

That the Grand Committee do report to the House that it has considered the Public Bodies (Merger of the Gambling Commission and the National Lottery Commission) Order 2013.

Relevant documents: 35th Report from the Secondary Legislation Scrutiny Committee, Session 2012-13, 23rd Report from the Joint Committee on Statutory Instruments, Session 2012-13.

Lord Gardiner of Kimble: My Lords, this is an administrative change that will provide some efficiency savings but that will be principally beneficial for the policy synergies and economies of scale obtainable from a single regulator in understanding and regulating the whole gambling market. This merger was first proposed by the previous Government, and the coalition has continued this support.

The Public Bodies Act 2011 provides a legal framework that enables the Government to propose the merger of specified bodies. The two commissions are so specified. This merger will ensure an integrated approach to consumer protection and allow the merged commission to advise the Government on gambling in the round.

The functions of both commissions are broadly similar, especially with regard to social responsibility. The National Lottery Commission ensures that the National Lottery is run with all due propriety and

[Lord Gardiner of Kimble]
protects the interests of every participant. Subject to these duties, the NLC must do its best to maximise the money available to good causes.

Similarly, the Gambling Commission is responsible for ensuring that gambling is conducted fairly and openly, that children and vulnerable people are protected and that gambling is not a source of crime and disorder. It aims to permit gambling that is reasonably consistent with its pursuit of these licensing objectives.

Nothing in the order would affect the way in which the National Lottery and the gambling industry are at present regulated by their respective commissions; the merged body will retain the statutory functions of the existing commissions. However, the gambling industry, including the society lotteries sector, has expressed some concerns that the NLC's duty to maximise National Lottery returns might be seen to influence regulatory decisions on commercial gambling or the provision of advice to government in favour of the National Lottery.

The key to addressing this is for the merged body to be absolutely clear as to the statutory regime within which each such decision is taken. The commission will ensure that decisions are taken within the appropriate legislative framework and that they do not take into account considerations that are irrelevant in that context, such as those applicable only to the other regime. Therefore, when making a regulatory decision on commercial gambling, which includes the society lotteries sector, considerations about the impact that this might have on the National Lottery will be irrelevant, and vice versa.

The merged organisation, like the individual commissions at present, will continue to give reasons for its decisions and be subject to judicial oversight via judicial review or the gambling appeals tribunal if, for example, it is thought to have taken into account irrelevant considerations or misused confidential information.

In addition to the preservation of separate legislative regimes and protections for the National Lottery and other gambling, the DCMS is taking further steps to ensure that its oversight of the merged commission continues to provide the appropriate level of accountability. The Minister for Sport and Tourism has written to the Gambling Commission to set out what the Government will require of the merged commission. This letter was copied to the House of Lords Secondary Legislation Scrutiny Committee by way of response to its report dated 26 April 2013. I have ensured that copies of this letter are on the table here for your Lordships' perusal. I apologise that it has not been possible to make a copy for your Lordships available earlier, but I know that the noble Baroness, Lady Jones, has received a copy.

The Gambling Commission will put in place arrangements to ensure the following: that only relevant considerations are taken into account when making decisions; that the merged commission gives adequate reasons for these decisions; that appropriate information barriers are in place to avoid any actual, or perceived, conflicts of interest arising in the exercise of its functions under the relevant legislation; and that those handling operator-specific information are properly trained in data security protocols. In order to support these requirements, the commission is already planning to establish a sub-committee to make recommendations to the board on National Lottery issues.

All these assurance measures will be reflected in the management agreement, which will be settled between the DCMS and the merged commission in due course. This agreement will inform and underpin the department's relationship with the merged commission. It will specify the steps that the merged commission will be expected to take to demonstrate impartiality and that the chairman and commissioners are responsible for implementing appropriate governance arrangements to manage any real, or perceived, conflicts of interest.

Given the distinct and self-contained statutory regimes relating to the National Lottery and other gambling matters, we believe that any such conflicts can be readily managed and that it is unnecessary to be prescriptive about the precise governance arrangements in legislation or the management agreement. This will preserve the merged commission's ability to amend arrangements in the light of experience while continuing to respect the general principles set out in the management agreement. The Gambling Commission and the National Lottery Commission both support this merger.

Together, the collocation of the two commissions and the shared service arrangements that they have in place have, since January 2012, generated efficiency savings, while steps have already been taken to embed National Lottery expertise within the Gambling Commission. These actions have generated upfront costs but alongside the merger provide a sound basis for savings over the medium and long term. Once costs have fallen away, these initiatives will save more than £1.1 million per annum. The merger of the two commissions will itself generate a total saving for licence fee payers and lottery good causes of £330,000 over the 10-year assessment period considered by the Public Bodies Act.

In summary, this order will create a single organisation that is better able to provide comprehensive advice and guidance to the Government on all gambling issues, including the continuing protection of the public. The two organisations are already integrated in a number of respects, and approval of this order will allow us to realise further savings and additional benefits. I recommend this order to your Lordships.

4 pm

Lord Faulkner of Worcester: My Lords, the short speech I was planning to make has changed dramatically as a result of the Minister's opening speech, which I very much welcome. I was going to raise the conflict of interest between the Gambling Commission and the National Lottery Commission, an issue which the Secondary Legislation Scrutiny Committee picked up on and which I referred to during Committee on the Public Bodies Bill in March 2011. I made the point that from the inception of the National Lottery, the National Lottery Commission has operated with an inherent conflict of interest in that, as the Minister said, it is required to maximise the return for good causes but at the same time is supposed to protect players' interests. I do not believe that the National Lottery Commission has, up to now, succeeded in doing that.

In drawing attention to this during Committee on the Public Bodies Bill, I expressed the hope that the merger of the two bodies would be resolved in future. The Minister was not quite right to say that the previous Administration had supported this merger. The Joint Committee on the draft Gambling Bill supported it, but the Government of the time unfortunately rejected the merger of the two bodies. To avoid wearying the Committee now, I will not quote what Lord McIntosh said for the Government on that occasion about those being two different jobs.

I listened very carefully to what the Minister said about how in future this conflict will be resolved. I want to read carefully what he has said, but the objections that I raised in March 2011 on the Public Bodies Bill seem substantially to have been met by what he has said this afternoon. I would like just one assurance, if he is able to give it to me: that he feels that the resources available to the Gambling Commission will be sufficient to do this job properly, because along with the obvious need for the National Lottery to be a success, player protection is very important.

Baroness Jones of Whitchurch: My Lords, I thank the Minister very much for his explanation of the order. I also thank him for the helpful information that he sent in advance of the debate, including the letter from Hugh Robertson to the chair of the Gambling Commission. I will return to that letter and that issue shortly.

First, I make the more general point that I understand that much of the impetus for this merger is to save money, and I do not doubt that there are savings to be made. I know that the House of Commons Culture, Media and Sport Select Committee report questioned the figures provided and felt that the overall savings should be greater. It is of course incumbent on any organisation in receipt of public money to spend that money wisely. I hope that the Gambling Commission will be held to account for this expenditure in due course.

However, I will not focus on the financial implications as I want to explore other, more pressing issues with the Minister this afternoon. We share the growing concern that gambling is running out of control. The spiralling rise of online gambling, now a £2 billion a year industry, risks damaging the health and well-being of a generation. We already know that nearly 1 million people are in danger of becoming problem gamblers and that there are already 500,000 hard-core addicts. Meanwhile, one of the Gambling Commission's clear functions is already to protect children and vulnerable adults from being harmed or exploited by gambling, so by most measures it would appear that it is failing in that task. In that context, we need to be satisfied that the proposed merger is in the public interest and that the new, merged Gambling Commission is fit for purpose in the light of this crisis. Therefore, I should like to ask the Minister some questions.

First, is there a danger that we are rushing this decision without giving the proposal adequate consideration? The Commons Select Committee that considered this matter made two important recommendations, which need to be addressed before a final decision is made. Regrettably, I do not think that Hugh Robertson's letter adequately addresses these issues. I take the point that we have had very little time to consider that letter. For example, the Select Committee recommended that the Gambling Commission outline the governance arrangements that it will put in place to ensure that there is a robust separation of its duties to oversee the lottery and gambling organisations to avoid the conflicts of interest to which my noble friend referred. It recommended that the details be published by the Gambling Commission in time for consideration of the order in this House. I agree that this information would have been extremely useful if it had been before us today, but it does not seem to have been provided by the Gambling Commission, unless my internet searches have failed on this occasion.

What is more, I do not believe that its original suggestion that it would set up a sub-committee to deal with lottery issues is adequate to address the governance issues. The Select Committee also recommended that the DCMS outline what steps it would take to monitor the Gambling Commission's execution of its combined duties and what action it proposed to take if it was seen not to be acting even-handedly. I understand that Hugh Robertson's letter is intended to address this issue by setting out what the DCMS would like to see in the management agreement with the Gambling Commission. However, we have not seen the response to Hugh Robertson's letter from the Gambling Commission, and I should like to hear what it has to say on the matter.

Incidentally, the Minister also asked the Gambling Commission to put his letter on its website in time for this debate, but at midday today I could not find it there. Again, that might be a failure on the part of my internet search skills, but at the moment there seems to be an ominous silence from the Gambling Commission.

Also, the Minister's letter does not adequately address the Select Committee's question about what action the DCMS would take if, for example, there was evidence that the funding of good causes was suffering as a result of the merger. Therefore, first, given that the Select Committee's report on this issue was published on only 2 July and that, as I understand it, the Commons will not be considering this order until September, does the Minister not think that a decision on the order should be delayed to allow all the information to be presented to this House and fully considered?

Secondly, the Minister will be aware that there are anomalies in how the National Lottery is treated compared with other society lotteries—for example, in the specified percentage required to be given to good causes and the duty of 12% that is paid to government. I gather that the DCMS is due to hold a consultation on the minimum that should be donated to good causes, and I welcome that. Also, as I understand it, the recent High Court judgment on the status of the Health Lottery, run by Richard Desmond, ruled that this was a matter for government rather than the courts. Would this merger not have been a convenient time to address these issues and the protections that need to be put in place to regulate other society and commercial lotteries that may be established?

[Baroness Jones of Whitchurch]

Thirdly, is the Minister satisfied that the Gambling Commission is operating in a sufficiently transparent way? The vast majority of society lotteries raise significant sums of money for the causes which they support, but the percentage of income which they donate varies considerably. I tried to explore this a little in a recent Written Question to the Minister. In his reply, he said that the commission publishes aggregates of the financial details of these schemes. However, is that really good enough? Does the Minister feel that the Gambling Commission could do more to share information about the individual profits and donations of these lottery schemes, and, again, does he feel that this could have been addressed as part of the merger?

Crucial to any changes has to be the need to protect the £2 billion given to good causes by the National Lottery, which has become a respected national institution. The Gambling Commission could do more to reassure us that it has robust governance systems in place to ring-fence and nurture the development of the lottery while cracking down on exploitative commercial and on-line gambling.

I hope the Minister will address these concerns and more fully consider a postponement of the final decision on this order to allow for the letters to be read and for all the information to be presented to us in a proper form so that scrutiny can take place. I look forward to hearing his response to these questions.

Lord Faulkner of Worcester: My Lords, I should have put on the record at the start of my speech my entry in the register. I am a gambling regulator as a member of the Alderney Gambling Control Commission.

Lord Gardiner of Kimble: My Lords, I thank noble Lords for the points that have been raised and hope that I can allay some residual concerns. Perhaps the noble Baroness and any other noble Lord would care to have a meeting with me and my officials before the House rises if there are any issues that I might not be able to satisfy in my closing remarks. I will be very happy to discuss further any issues that I cannot satisfy today.

The noble Baroness, Lady Jones, referred to problem gambling. I strongly support the Gambling Commission and its advisory body, the Responsible Gambling Strategy Board, in their efforts to determine whether the level of gambling-related harm is increasing and what can be done to reduce it. The conundrum with which all Governments grapple is how to balance the enjoyment of the large majority who gamble safely—of course, gambling brings considerable economic and other benefits, whether employment, tax or proceeds for good causes—with finding ways to identify those at risk of harming themselves and reduce the risk of such harm.

We need the gambling industry to help drive the search for improved ways of mitigating the risks as the quid pro quo of being allowed to trade. It should be recognised that the level of problem gambling is less than 1% of the population, but we must be watchful through appropriate legislation and the work of the commission, which is informed by the Responsible Gambling Strategy Board.

I was going to say that this order has been supported by this Government and their predecessors, but the noble Lord, Lord Faulkner, reminds me that that might not be the case. I also have in my notes a suggestion that this measure was supported in both the Conservative Party and Labour Party manifestos at the last election. I had therefore better look back into the records to see how all this corresponds with the facts. However, I can say that this issue has been at large for both Governments to consider.

The order will merge two bodies with similar responsibilities, aims and objectives, as I have said. Having a single regulator that understands and regulates the whole gambling market will provide desirable policy synergies. This can be achieved while effectively managing sensitive data, handling two sets of legislation and preserving the commitment by the regulator's predecessors to consumer protection. This is well within the capability of the Gambling Commission. While creating a single entity ensures a common approach and in-the-round advice on gambling to government, this merger will also generate savings for the industry and lottery good causes. This is a clear benefit because we want as much of these savings as possible to remain for good causes.

Neither committee in either House objected to the merger but both have requested that we publish guidance on how the Gambling Commission will maintain its impartiality. As I said earlier, a copy of the Minister's letter to the chairman of the Gambling Commission outlining the governance arrangements that the Gambling Commission will implement is available. I am mindful of what the noble Baroness has said and I may need to reflect on that and discuss it with her. In particular, it is important that we look at the response from the Gambling Commission.

This merger has been under consideration and we have been talking to officials for a very long time. Indeed, if it had not been for the National Lottery licence competition, this proposal might well have been presented by the previous Government. For that reason, I do not think that the merger itself is a rushed affair. However, we need to make sure that the fine tuning and governance arrangements are fit for purpose. I would like to have discussions with the noble Baronesses on that.

4.15 pm

These measures set out the responsibilities of the Gambling Commission's board in ensuring impartiality, appropriate use of data and protection against any real or perceived conflicts of interest. In addition to these governance safeguards, judicial safeguards are also in place. The Gambling Commission works as a transparent, fully accountable organisation. It reports on its work to the department and Parliament. It will continue to give reasons for its decision. Anyone aggrieved can, and I have no doubt will, make their concerns known to the commission. It will of course be necessary to take care that stakeholders do not confuse objections to decisions taken with indications of bias.

The noble Baroness, Lady Jones, raised the issue of society lotteries as part of this merger. While Parliament determined that at least 20% of the proceeds of each draw should go to that society's good cause, there are

no set limits on the amount of expenses, although they must be reasonable. The Gambling Commission is subject to data protection legislation and such information about individual operators is commercially sensitive and provided in confidence. Whether we should require societies to provide greater detail about allocation of their returns is indeed an interesting point. However, it should be noted that to do so may seem overregulatory. Matters such as these should be discussed during the Government's forthcoming consultation on society lotteries, which will set out the Government's thinking in this area.

The noble Lord, Lord Faulkner, mentioned resources. The Gambling Commission is funded through a combination of licence fees and grant in aid from the department. DCMS agrees the latter as part of good causes. The licence fees are set by the Gambling Commission at an appropriate level to ensure an adequate regime, and that obviously includes management of conflicts. I wanted to give the noble Lord that assurance.

My understanding is, and I have a note here to say, that the Government revisited this issue as part of the 2010 Budget and recommended this at that stage, which suggests that consideration of the principle has been ongoing for some time. The merger of these two bodies remains an extremely sensible proposition. I am happy to meet noble Lords for a discussion and then I hope to see the reply from the Gambling Commission. I wish to be helpful to your Lordships. Therefore, at this stage, given that this is consideration of the matter, I beg to move.

Motion agreed.

Apprenticeships (Alternative English Completion Conditions) (Amendment) Regulations 2013

Considered in Grand Committee

4.19 pm

Moved by ***Baroness Garden of Frognal:***

That the Grand Committee do report to the House that it has considered the Apprenticeships (Alternative English Completion Conditions) (Amendment) Regulations 2013.

Relevant documents: 3rd Report from the Joint Committee on Statutory Instruments.

Baroness Garden of Frognal: My Lords, these regulations introduce an amendment to the alternative completion conditions for English apprenticeships. As noble Lords know, employment is usually a precondition of any apprenticeship. Indeed, experience of genuine employment is what sets apprenticeships apart from most other forms of vocational training and gives apprentices a real head start in their careers.

Apprentices have a unique opportunity to learn from one or more mentors, and to develop, practice and hone real occupational skills. The apprentice will work alongside the master, watching, copying and refining their skills. For his part, the employer will demonstrate, guide and correct the apprentice's work. Both apprentice and employer have a real stake in the apprentice's development and success. Noble Lords will be aware of the value of this approach and of the part employment plays more generally in guaranteeing the quality of the training offered through apprenticeships and of its contribution to the apprentice's future value to prospective employers. However, in a very limited number of cases an exception to employed status is needed, and this is what the alternative completion conditions specify.

This issue was thoroughly debated during the passage of the Apprenticeships, Skills, Children and Learning Act, and there was agreement on all sides that some specific groups should not be denied access to apprenticeships because they could not meet the requirement for employment. Regulations were approved last year to cover three types of exception. First, there are apprentices who begin their training while in employment but are made redundant during the course of the apprenticeship due to changes in the employer's circumstances. Secondly, the provisions support athletes hoping to represent the nation in an Olympic, Paralympic or Commonwealth Games discipline. Thirdly, there are a very small number of jobs or occupational areas in which employed status is not the norm. A few of these were approved for apprenticeships last year, and today I am looking for the Committee's support to add one further case.

In 2012, the first set of alternative completion conditions were approved, with the assurance that these would be reviewed regularly. We remain adamant that only very exceptional cases must be allowed in order to ensure that the quality of all apprenticeships is not compromised. The Government have carefully considered all subsequent applications and decided that only one of the three submitted should be taken forward. The advanced apprenticeship in maritime occupations shares common features with the others previously approved in Schedule 1. Apprentices will be engaged in a commercial activity and supported by experienced colleagues involved in a collective venture.

I assure noble Lords that this is not the thin end of any wedge. Extending alternative completion conditions to able seamen and trainee officers in the Merchant Navy will ensure the best start to naval careers and reduce the maritime sector's reliance on recruiting personnel from overseas. The exceptions provided for under the regulations reflect the Government's desire to ensure that otherwise able candidates are not excluded from the possibility of gaining an apprenticeship by force of circumstance. The regulations accordingly tread a very careful line between recognising and providing for such circumstances and continuing to guarantee the quality of the qualification to which training will lead. That is consistent with the Government's recent response to Doug Richard's review of apprenticeships.

On that basis, I commend the regulations to the Committee.

Lord Greenway: My Lords, I thank the Minister for outlining these regulations. I say at the outset that I very much welcome them. I declare an interest as the

[Lord Greenway]
patron of the Maritime London Officer Cadet scheme. This change has arisen out of an anomaly that arose that restricted apprenticeships in the Merchant Navy.

The apprentice framework for maritime occupations unfortunately fell between two stools—two sets of statutory requirements, one being the specification of apprenticeship standards for England, the SASE, and the other the regulation supporting European Community guidelines on maritime transport state aid. To satisfy the former, trainee officers had to be employed but were forbidden from being employed by the European regulations, so there was a problem there. I am delighted to say that although it has taken a while, things have worked out well, and these new regulations do not alter that.

I do not need to tell your Lordships that the Merchant Navy annually recruits some 800 or 900 entrants into the business. Deck officer and engineer cadets generally have two to three years' training. In the Merchant Navy, we prefer to call them cadets, not apprentices, but they are in fact the same thing. It is very important that we continue to train sufficient numbers of these young officers, because although our Merchant Navy has declined over the years, these young officers can still get very worthwhile jobs working for foreign companies, and after being at sea for a number of years they can come ashore and fill the multitude of maritime-related jobs ashore, not least in the City of London. I very much welcome these regulations.

Lord Young of Norwood Green: My Lords, I, too, welcome these regulations. I listened carefully to what the noble Lord, Lord Greenway, said. He is an expert in this field, and it seems that this is a seaworthy recommendation from the Government.

I have a couple of comments to make. The Explanatory Memorandum states:

"It is intended that the certifying authority, which will be the Alliance of Sector Skills Councils, will issue guidance from time to time on the administrative arrangements relating to the application and awarding of apprenticeship certificates. This guidance will cover circumstances where the standard completion conditions do not apply. The Secretary of State is not intending to issue guidance".

I am quite pleased. The Alliance of Sector Skills Councils should have the right experience and occupational awareness, but there ought from time to time to be some check that that guidance meets the necessary standards and criteria. I would welcome the Minister's views on that.

I am not expecting an answer from the Minister today, but I was somewhat surprised to see that the number of under-19 apprenticeship starts as a proportion of the total for all ages in England shows a decrease in 2010-11 and 2011-12 at the same time as the total annual number of vacancies for apprenticeships increased from around 43,000 to just over 100,000. Furthermore, the proportion of candidate applications for apprenticeships for under-19 year-olds had decreased from 2009-10, while it had been increasing for over-19s. I find it surprising that demand is less than supply. My experience is that it is usually the other way round. I like to quote British Telecom apprenticeships; you can get into Oxford or Cambridge more easily than you can get a British Telecom apprenticeship. There are something like 300 apprenticeships and usually about 25,000 applications.

I am really puzzled by those figures. I am not expecting an answer this afternoon. The only thing I can think of is that the figures do not compare like with like and are about a decrease for under-19s as a percentage of the total. That could be because the number of apprenticeships available in that range has also slightly decreased, if my memory serves me right, although the overall figures have gone up. I think that is the answer, but this is an important area. I apologise for slightly extending the range of questions, but as it occurred in the Explanatory Memorandum, I thought it was fair game. Apart from that, I am happy to endorse the government recommendation.

4.30 pm

Baroness Garden of Frognal: My Lords, I thank noble Lords for their contributions and for their support for this statutory instrument. I was interested to hear the expertise of the noble Lord, Lord Greenway, on this and to learn that the Merchant Navy prefers the term "cadets" to "apprentices". In most fields, we see cadets as slightly different from apprentices, but the maritime world has its own long established ways of doing things. It was also good to hear that when people get these qualifications it means that they will bring expertise back into land-based fields. The City of London has a great tradition of maritime-based trade and expertise. I can see that that is a good career option for people from the maritime world.

I assure the noble Lord, Lord Young, that the Government have a close relationship with the Alliance of Sector Skills Councils and that there will be monitoring and checking as we continue with these measures. The Government are trying to address the decrease in the number of under-19s in a number of sectors, although the total number of apprenticeships has increased significantly. We are, for instance, looking at a grant for employers and various other incentives, which should make it more straightforward for employers to bring the under-19s into different schemes.

I have indeed heard the noble Lord talk about the BT apprenticeships, which are highly sought after. I spent an interesting day on Friday visiting British Airways and its apprenticeship scheme. I was told that there had been 20 applications for every place on the programme. Some large employers are doing enormously valuable work in bringing in apprentices. It is extremely encouraging to see the enthusiasm of young people who find themselves on these programmes and their real commitment to, and focus on, work. We certainly wish that to continue while apprenticeships grow across all sectors.

I have probably answered the queries of noble Lord, Lord Young, at least in part. I think that there is widespread agreement that this is a good move forward.

Motion agreed.

4.32 pm

Sitting suspended.

National Minimum Wage (Amendment) Regulations 2013

Considered in Grand Committee

4.37 pm

Moved by ***Lord Popat:***

That the Grand Committee do report to the House that it has considered the National Minimum Wage (Amendment) Regulations 2013.

Relevant documents: 4th Report from the Joint Committee on Statutory Instruments.

Lord Popat: My Lords, the regulations before us increase the minimum wage rates for all workers and increase the maximum amount for living accommodation that counts towards minimum wage pay.

These regulations increase the main minimum wage rate—that is, the rate that applies to workers aged 21 or over—by 12 pence an hour from October, from £6.19 to £6.31. This increase follows the recommendation of the Low Pay Commission. It takes into account the need for caution as we recover from this recession. Even though the economy remained weaker in 2012 than had previously been forecast, levels of employment in the low-paying sectors have been relatively resilient. The commission concluded that an increase of 1.9 per cent will go a long way towards maintaining the relative earnings of the lowest paid, while at the same time being affordable to businesses of all sizes.

The Low Pay Commission's recommendation for the adult rate was based on extensive and sound economic evidence, analysis, research and consultation. We are confident that the commission was right to take a prudent approach. We believe that it is important that we do not do anything that would reduce employment or employment opportunities for the lowest-paid workers.

I will now speak about the minimum wage rates for young people. In the debate on last year's minimum wage regulations, noble Lords discussed the Government's decision to accept the Low Pay Commission's recommendation that the youth rates should be frozen at the same level as 2011. While this was not an easy decision, it was one that we felt was needed to avoid jeopardising the employment of young workers. The Low Pay Commission found that the labour market position of young people has stopped deteriorating and that there were some signs of improvement, although it is too early to know if these will become a trend. As a result, the commission concluded that a further freeze in the youth rates was not necessary. However, it recommended a smaller increase than for adults in order to help to protect the labour market position of young people. The draft regulations increase both the 16 to 17 year-old rate and the rate for 18 to 20 year-olds by 1% to £3.72 and £5.03 per hour respectively.

I am sure that noble Lords share the Government's concern about the position of young people in the labour market. Their employment prospects have suffered more than those of other workers in the difficult economic circumstances. We believe that the tough decision that we made last year has helped to stabilise their position and that the 1% increase in the youth rates set out in the regulations is the correct approach. It strikes the right balance between retaining the attractiveness of work for young people and not deterring employers from taking on someone who may require more training in the first instance.

Lastly, I shall explain why the Government rejected the Low Pay Commission's recommendation to freeze the apprentice rate and, instead, are increasing the rate by 1%. I should start by saying that the Government fully recognise the challenges that the commission has faced as a result of the uncertain economic environment. Its report contains substantial detail about the evidence that it considered and we thank the commissioners for all the hard work that they have put into developing their recommendations.

The commission's underlying analysis of the labour market is of its usual high standard and the Government entirely accept its assessment of the low-paid labour market. However, rather than accept the freeze that the commission recommended, we have decided to take a different approach. The Government entirely share the concerns expressed by the commission about non-compliance with the apprentice rate. We are clear that employers must pay their staff at least the minimum wage. The Government are fully committed to the minimum wage and its effective enforcement. That is why we are increasing compliance activity, raising awareness with employers at risk of unintentionally falling foul of minimum wage rules, and ensuring that individuals are up to date about their rights. We are also ensuring that our guidance it is as clear, comprehensive and consistent as possible. However, we believe that concern about non-compliance does not translate into a freeze in the apprentice minimum wage rate.

After careful consideration, we concluded that there are important reasons why we should make a modest increase in the apprentice rate. Apprenticeships are a key government policy and it is important that they are truly beneficial for both employers and apprentices. Increasing the apprentice rate by 1% will maintain its relative position compared with benefits and the youth minimum wage rates. This should ensure that apprenticeships remain an attractive route into work for young people.

As with all the minimum wage rates, the apprentice rate needs to balance affordability for employers with a fair deal for the lowest-paid workers. Many employers go further and pay more to reflect the value that a worker adds to their business. However, the apprentice rate acts as a safety net for many, and we do not want to see these young people falling further behind their peers in other areas of the labour market.

Although we are increasing the apprentice rate, I emphasise the need for caution. That is why we concluded that a rate which reflects the increase in benefits and public sector pay and which is in line with the increases in the youth minimum wage rates is appropriate. Evidence in the Low Pay Commission's report concluded that the majority of apprentices paid on or just above the apprentice rate are young people.

We believe that the commission has played, and continues to play, a vital role in achieving the success of the minimum wage. Going against a commission

[Lord Popat]
rate recommendation is not something that this Government have done before; nor is it something that we took lightly. The commission has provided high-calibre analysis and advice since its inception in 1997 and we will continue to work with it to ensure that the minimum wage continues to support as many low-paid workers as possible while, simultaneously, not damaging their employment prospects.

We consider that the changes to the minimum wage rates contained in the regulations are appropriate and that they balance the needs of low-paid workers against the challenges that businesses face. I ask your Lordships to consider these regulations.

4.45 pm

Baroness Donaghy: My Lords, I had not intended to speak in the debate but I am pleased to do so now that I have heard the Minister's explanation of the regulations.

I was a founding member of the Low Pay Commission when it was first established. We created its infrastructure and recommended the first minimum wage. The Low Pay Commission has always been thorough and has always acted on an evidence-based footing. It is fair to say—the Minister implied this—that it has always been conservative with a small "c" on the issue of youth rates and apprentice rates for the reasons he set out. It had to get the balance right between making sure that the rates were not so large as to discourage employers but not so small as to discourage apprenticeships. Therefore, the Government have got this right.

The only additional point I would make is that there is an extra challenge coming in from the side on the issue of unpaid internships, which complicates apprenticeships in many areas. It is extremely important that we support the recommendations but also bear in mind that the issue of youth rates, internships and the application of the minimum wage is becoming more and more of a grey area.

I have always maintained, and I do now, that although there were staff whose job it was to maintain the application of the minimum wage, there were never enough. I would like the Minister to respond on that. Certainly, in many areas of industry it was quite clear that there were two levels of pay—one declared and one undeclared—but the difficulty was in getting people to complain. In areas such as the textiles centre in the south-west of Birmingham, people might go to their advice centre but they would not want their name reported because they knew that they would probably never get another job in the area if they made the complaint. They worked the legitimate number of minimum wage hours but then, off the books, they would be asked to work an extra seven or eight hours and, therefore, the average made it clear that it was not any longer the statutory national minimum wage. That practice is still happening and, if anything, is probably worse.

So, in supporting the general idea—I do not want to go against the Low Pay Commission normally, but I think in this case it has acted on the side of generosity—I would ask the question about ensuring the application of the statutory national minimum wage and that the law is carried out on the ground.

Lord Young of Norwood Green: My Lords, I, too, in principle welcome the Government's proposal. I am always pleased to see their conversion to supporters of the national minimum wage. As someone else remarked in another context, it was not always thus. However, it is good to see that there now seems to be an enthusiastic endorsement of both the principle and application of the national minimum wage. We do not want to be in a situation where it decreases the number of jobs. We could argue that what has a major impact on jobs and the number of jobs available is the amount of growth we can get in the economy, but I do not think that this is the right place to debate the Government's economic strategy. However, it is well known that we do not feel they have got it right—said he with the gift of understatement.

I endorse the comments of my noble friend Lady Donaghy. The Minister referred to the importance of effective enforcement and the problem of non-compliance. Are there any statistics of the number of complaints going into either ACAS or any of the other bodies? There is an employment rights helpline and I would be interested to know what the statistics are on complaints about non-compliance with the national minimum wage.

Other than having those concerns, we endorse the proposal.

Lord Popat: This has been a valuable short debate and I thank noble Lords for their important questions. A couple of specific points were raised and I shall respond to them in a moment. However, first, I should like to emphasise that the Government are committed to the minimum wage because of the protection that it provides to lower-paid workers and the incentives to work that it provides.

These regulations support the Government's commitment to delivering fairness and supporting business, and I believe that they are fair and appropriate. The increase that the Government have recommended is reasonable, bearing in mind that the personal allowance of a large number of low-paid people has gone up in the past 18 months, which will help them to earn more money net of tax.

The noble Baroness, Lady Donaghy, and the noble Lord, Lord Young, both raised two very important issues. The LPC was established with the right infrastructure in 1997 and it does excellent work. It is quite independent of the Government and represents people from trade unions and other organisations. With the minimum wage, there is widespread acceptance that what we are recommending is appropriate.

With regard to enforcement figures, in 2012-13 the Pay and Work Rights Helpline received around 58,000 calls. Of these, the overwhelming majority—over 90%—were dealt with by the helpline. Just under 3,000 calls were referred on to the enforcement agencies for further action. We are making a real effort to ensure that employees are aware of the minimum wage and that employers are aware of the onus on them to pay the minimum wage to their employees.

I hope that noble Lords feel that they can accept the regulations. I trust that my response has been appropriate. If it has not been, I shall be very happy to write to noble Lords.

Lord Young of Norwood Green: I thank the Minister for that. For clarification, when he said that out of the 58,000 calls to the helpline 3,000 were referred to the enforcement agencies, I presume that that meant 3,000 calls from those receiving the national minimum wage. Am I right in that presumption?

Lord Popat: That is correct. In fact, the information that I have is that just under 3,000 calls were referred on to the enforcement agencies for further action—in other words, the enforcement agencies were going to take further action to resolve any outstanding issues or discrepancies between employers and employees.

Motion agreed.

Unfair Dismissal (Variation of the Limit of Compensatory Award) Order 2013

Considered in Grand Committee

4.53 pm

Moved by ***Lord Popat:***

That the Grand Committee do report to the House that it has considered the Unfair Dismissal (Variation of the Limit of Compensatory Award) Order 2013.

Relevant documents: 4th Report from the Joint Committee on Statutory Instruments, 6th Report from the Secondary Legislation Scrutiny Committee.

Lord Popat: My Lords, I beg to move that the Unfair Dismissal (Variation of the Limit of Compensatory Award) Order 2013 be considered by the Committee.

This draft order introduces an additional limit on the compensatory award for unfair dismissal, which is based on 52 weeks of an individual's pay. This limit will exist alongside the existing overall limit, currently at £74,200, with the applicable cap in individual cases being the lower of the two caps. This order is an exercise of the power found in Section 15 of the Enterprise and Regulatory Reform Act 2013. The power allows the Secretary of State to vary the limit on compensatory awards for unfair dismissal in certain ways.

There are two ways in which the limit can be varied. This first is in the order before us today: the introduction of a cap based on an individual's pay, provided that this cap is no less than 52 weeks' pay. The second way is to change the overall level of the cap. This power is also limited. The overall level of the cap cannot be less than median annual earnings or more than three times median annual earnings. The current overall limit of £74,200 falls within this range. We do not intend, at this time, to use this aspect of the power in Section 15 to change the overall limit further.

The purpose of this order is to address the effects that the recent rapid increase in the limit has had. The current cap stands at £74,200, greatly in excess of the average unfair dismissal award of less than £5,000 which includes both the basic and compensatory elements of the award. The potential, however unlikely, for high awards creates unrealistic expectations among both employers and employees. The uncertainty that this potential creates for employers can discourage them taking on new staff while claimants may believe that if they pursue the claim, rather than accept a settlement, they will receive large sums.

I am sure that noble Lords will agree that it is important, particularly if we are to achieve our shared objectives of growth and increased early dispute resolution, to manage expectations about the level of tribunal awards. The Government consulted on the unfair dismissal compensatory award cap through the *Ending the Employment Relationship* consultation. Following analysis of responses to the consultation, the Government are not minded to change the overall specified cap but have decided that it is appropriate to introduce a cap based on an individual's salary to run alongside the overall cap. The Secondary Legislation Scrutiny Committee highlighted this decision in its 27 June report, and I am thankful to it for providing the opportunity to put to rest any concerns about the consistency of the Government's approach to consultation.

As the Committee pointed out, statistically speaking, there was not unanimous support for or against any option. Half of respondents were in favour of the cap before us today and 45% were not, while 37% felt the overall cap was appropriate, and 39% felt it was not. If these numbers were the only evidence that we had from the consultation, our decision would indeed be inconsistent. However, these data are only a part of the evidence we received. As we have only 30 minutes today, I will refer to only a few key points.

First, among respondents who opposed the pay-based cap, almost 40% opposed any cap at all on rewards. Noble Lords will appreciate, however, that all Governments have agreed that it is necessary to have a limit on compensation for unfair dismissal. Secondly, as our government response clearly stated, very few respondents made any suggestion of an alternative level for the overall level of cap. Of the 26 respondents who suggested an amount, eight suggested £26,000, six suggested £78,000, five suggested £52,000 and three suggested £50,000. The remaining four suggested amounts in the range of average annual earnings and three times that amount. Moreover, these suggestions were not backed by supporting evidence. Without support or evidence, the Government chose not to initiate a legislative change to the overall cap at this time. I am sure noble Lords will agree that we do not want to choose a new cap arbitrarily.

Thirdly, a key component of consultation analysis is to consider the quality of evidence provided. We were, on balance, convinced by respondents' arguments for a salary-based cap; it is a tailored approach to unfair dismissal awards that is fair to claimants. It is right that the cap is based on pay because the compensatory award is meant to reflect loss caused by the employer's actions in dismissing the employee. Since the compensatory award is based on financial loss, it makes sense to link it to the individual's pay. Let us also not forget that this change is about correcting perceptions.

[Lord Popat]

We estimate that only 0.25% of people who bring an unfair dismissal claim receive an award which exceeds their annual salary. This estimate is based on the total award, that is, both the basic and compensatory awards combined, so the number affected by limiting the compensatory element of the award would be likely to be even lower. This order has no effect on the basic award, which is currently capped at £13,500.

The Government are committed to promoting growth in the UK economy and take the view that this cap will facilitate that growth while still being fair to individuals who have been unfairly dismissed. I commend this order to the Committee.

Lord Monks: My Lords, I thank the Minister for that explanation of the Government's position. I note that he did not address much the report of the Secondary Legislation Scrutiny Committee, which criticised the Government for inconsistency in the way that they have conducted the consultations and come to their conclusions. This is partly because the last time this issue was considered the Government were not enthusiastic about a pay-based cap but they have changed their position in the intervening period. That is an argument with the Secondary Legislation Scrutiny Committee. Perhaps the Minister will find an opportunity to explain the Government's view on that point a little more. However, on the substance of the issue—

5.01 pm

Sitting suspended for a Division in the House.

5.11 pm

Lord Monks: The Minister will be grateful that I do not propose to go through my opening remarks again. I am sure that he has got that particular point. The Division neatly ended a paragraph of thoughts and so I will move on to another: the purpose of the change.

We are being asked to believe that because people can see a crock of gold in this compensatory award at present, the cap has become an expectation which encourages claims and then deters employers from undertaking recruitment because they are afraid that this gathering mass of people will all think that they are going to get their name up in lights with the top award. It seems far-fetched in the extreme to say that the picture being presented is a real one. I instead come to the conclusion, which I would test on the Minister, that this is simply about reducing the amount of money that some employers have to pay to some employees. It is a step at the expense of the employee in favour of the employer.

This is one of many steps that have been taken in this area in recent times, particularly with the raising of the qualifying period for unfair dismissal from one year to two, which took 3 million workers out of the scope of unfair dismissal legislation. That was perhaps the biggest but there have been a number of other changes. I suggest that this is another salami cut into employment rights at work. It is not the biggest—I do not want to exaggerate my case—but it is one under which some employees will lose, while some employers are going to gain from it. I hope that the Minister will acknowledge that that is really what it is about rather than this romantic story that the Government seem to be advancing: that all this reduced compensation will mean fewer claims, which means more employment, to put it in the reverse way from how I put it before. Is this not simply about reducing the amount that employers have to pay to workers who they have unfairly dismissed? Those workers have been not just dismissed but unfairly dismissed.

Baroness Donaghy: My Lords, I shall make a couple of points. My noble friend Lord Monks has already referred to the Secondary Legislation Scrutiny Committee's report. I understand that in the absence of clear consensus on views, sometimes the Government have to take a leadership position, which this Government have done. Unfortunately, it is not a consistent position. I question why the Government have decided not to take action on the basis of no consensus on one issue and to take action on the basis of no consensus on the second issue.

5.15 pm

The overall position about compensation awards from employment tribunals has always been a matter of enormous propaganda. I remember during my seven year period as chair of ACAS having to convince Ministers that the median award for unfair dismissal was £5,000. Some of them, frankly, did not believe the figure, even though I would point out the statistics. I would say that is the median award, and that is of the minority of cases which get to tribunal and the minority of cases at tribunal where the applicant wins. But the propaganda seems to have a firm grip. I probably praise the tabloid press for their headlines on this for so firmly fixing these non-existent but super-duper awards as the norm.

I cannot help thinking that the Government are to some extent trying to say to employers, "There you are, we have put a cap on compensation", so that it carries on their deregulation and cutting burdens to employers propaganda. The Minister has said that only 0.25% of the awards are higher figures and so accepts my point that the fact that people believe that all of the awards at tribunal are very high indeed is simply propaganda. I am concerned that there is the inconsistency which the Secondary Legislation Scrutiny Committee has pointed out. I am perfectly prepared to accept that the Government have to take a leadership position when there is no consensus, but it is important that there is a consistent message.

Lord Young of Norwood Green: My Lords, we have had a fair amount of consensus this afternoon on previous statutory instruments but I think that this is the one where we part company, as we have signalled in previous debates on this issue under the Enterprise and Regulatory Reform Act. If there was one move that the Government made that we firmly endorsed, it was to encourage the mediation process through ACAS. We supported that; we thought that it was constructive and sensible. If only the Government had pressed the pause button after having done that and had waited

for a period of time to see its effect, that would have been profoundly important. However, the Government were not satisfied with that. As my noble friends have commented, they have gone on to introduce a number of other significant changes. One change was increasing the period of service required before a claim for unfair dismissal could be entered from one year to two years, and my noble friend Lord Monks has referred to that. That is a profound change in itself.

The consultation process that the Government went through was, as someone somewhere else said, "a damn close run thing, Carruthers". The figures are really quite marginal. In some cases, they swing the other way on whether or not there should be caps. As my noble friend Lord Monks said, the Secondary Legislation Scrutiny Committee itself pointed out in paragraph 20 of its report:

"It is of course for Government to decide on policy-formulation in the light of consultation responses. We note, however, that there was a lack of consensus on both the key issues relating to compensation for unfair dismissal canvassed in the 2012 consultation process. In the case of the overall cap, the Government saw this as reason to make no change. By contrast, an even division of opinion among respondents has not held the Government back from implementing its proposal to introduce a pay-based cap. It is hard to see these outcomes as demonstrating consistency in the Government's response to consultation".

We welcome the Government's response on that point. However, we cannot help feeling that the lower paid will again face the consequences of this and that it will have an impact on older workers, who may have longer service with an employer.

We do not believe that this will address the real issue. Unfortunately—my noble friend Lady Donaghy is right—this is based on perception, as the Government have admitted, and on the wide publicity that has been given, not only in the tabloids but in the broadsheets, to the one or two cases which return significantly large figures. This is an ill-conceived proposal and we would like the Government to think again. However, in any event, I welcome the Minister's response.

Lord Popat: My Lords, I thank noble Lords for their valuable and detailed comments during this short debate.

The order focuses on giving adequate recompense to those who have been unfairly dismissed while also providing certainty for business on its potential liability. It will bring expectations more in line with the likely amount of award that can be expected in an unfair dismissal claim at tribunal. Secondly, it will enable employers to hire with more confidence, as this individualised cap will reassure them about potential liabilities.

A number of points were raised which I should like to address in my remaining time. The noble Lord, Lord Monks, referred to reducing the cost to employers. We estimate conservatively that, as I said earlier, only 0.25% of unfair dismissal claimants might be affected by the cap. This is about allowing employers and employees to take informed decisions on how to resolve disputes. If they know in advance the likely outcome of a tribunal, it will help the two parties to settle in advance.

The noble Lord, Lord Monks, also said that the Government were inconsistent in their approach to considering the consultation response. As I said in my opening remarks, although there was not unanimous support for any single option, when considering the totality of the evidence and not only the bald figures that we received from this information, the Government were convinced by the response argument for a salary-based cap. The cap applies to many different circumstances. A pay-based cap is a more individualised yet clear method of ensuring that parties know the potential level of award while still fairly compensating claimants.

The large gap between the expectation and the reality is a problem for both employees and employers. It is unfair to allow a situation where the mis-sold promise of big pay awards means that individuals make decisions based on flawed assumptions. We want to ensure that individuals can make informed and intelligent decisions based on more realistic information and an assessment of likely awards. This is not about pushing the parties down any particular route; it is there to help them.

A number of other issues were raised on the same subject. The order will give business clarity about the potential cost to employers in cases where they have to fire employees. Certainty is very important for employers when they employ people. It is also important that we do not give unrealistic hope or expectation to employees who are unfairly dismissed. The order clarifies the position for both parties.

We are competing in the global world and it is important that our employment legislation is clear-cut. This order is clear-cut for both employees and employers. I hope that I have covered all the points raised. If I have not, I shall be happy to write to noble Lords.

Lord Young of Norwood Green: My Lords, the Minister said that a pay-based cap will make the system more consistent. It may make it more consistent, but is it fair? The impact for someone on lower pay of losing their job can be far higher than on someone on a significantly higher pay rate. It is not just consistency that you look for when making this kind of legislation, it is whether it treats people fairly. The Minister did not address that issue and I would welcome his views on it.

Lord Popat: My Lords, as I said earlier, 0.25% of cases at the tribunal for unfair dismissal have resulted in compensation of £74,200, but 90% of the cases that have gone to the tribunal have resulted in compensation of just under £5,000. Therefore, even somebody on the minimum wage will probably be able to get the right level of compensation. All parties recognise the need for a cap. As I said earlier, the median award is £4,560, which is below the median salary. Therefore, for 97.5% it is quite reasonable for low-paid people to have this cap or the maximum of £74,200.

Baroness Donaghy: I was making a general point about the Government allowing, if you like, propaganda about excessive amounts of money to simmer around in the pot, whereas we all know that the reality is that the award figure is very low. I should have mentioned

[Baroness Donaghy]
earlier that, even when the minority of the minority of the minority are awarded compensation, 40% of them do not receive it. They have to either accept nothing or go through the civil courts to chase the employer for the award. Therefore, the talk about caps and limits and about putting employers off employing people goes along with the propaganda about large amounts of money, when the reality is that those amounts are small and 40% of them do not get paid. Does the Minister not feel that he could at least put forward a consistent point of view about this and not put a cap on the pay-based awards?

Lord Popat: The noble Baroness raises a very important issue. This large amount of £74,200 has been in place for some time. We are trying to clarify matters, and the most reasonable or most equitable way of doing this and of speeding up the tribunal process or the agreement between employers and employees is to bring in a cap of either 12 months' salary—which is quite reasonable because it gives the employee 12 months to find an alternative job—or £74,200. As I mentioned earlier, 95% of the awards given in the past have been settled for less than the median of £4,560. We have put information on median awards on ET1 claim forms to help to address issues of perception. We are also improving the guidance to help employers and employees to have better information.

The Government have given due regard to the comments of the Secondary Legislation Scrutiny Committee and have concluded that the order meets the requirements of the Act. I commend it to the Committee.

Motion agreed.

Committee adjourned at 5.29 pm.

Written Statements

Monday 15 July 2013

Arms Trade Treaty
Statement

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi): My Honourable Friend the Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs (Alistair Burt) has made the following Written Ministerial Statement: The campaign for the Arms Trade Treaty has enjoyed the strong support of Members in both Houses for over seven years. From before the first Diplomatic Conference in July, 2012 through to the Final Diplomatic Conference earlier this year, the Arms Trade Treaty has been a top priority for this Government with Ministers lobbying hard for a robust agreement that could achieve the broadest possible support. With the Minister of State for International Development, I attended the Diplomatic Conference in July 2012 and I attended the Diplomatic Conference in March this year to support the efforts of our diplomats and to urge the international community to agree on this important issue. The negotiations were hard fought and compromises were necessary on all sides, but the treaty that emerged is robust, implementable and will make a significant difference to international peace and security.

In April, the treaty was adopted with overwhelming support at the United Nations General Assembly. On 3 June, I was extremely proud to sign the treaty on behalf of the United Kingdom of Great Britain and Northern Ireland on the day it opened for signature. As one of the seven Co-Authors of the Resolution that first brought this issue to the attention of the United Nations, we have led the international efforts which have resulted in this agreement.

In accordance with the Constitutional Reform and Governance Act 2010 and as part of the United Kingdom of Great Britain and Northern Ireland's ratification process, the Government has today laid before Parliament the Arms Trade Treaty under Command Paper number CM8680 with an Explanatory Memorandum which sets out the background to the treaty, ministerial responsibility for implementation, and financial implications resulting from ratification.

A properly regulated arms trade will help states to meet their legitimate defence and security needs to protect their citizens. The Arms Trade Treaty will make a difference. It is the first legally-binding, truly global commitment to control exports of conventional arms. By introducing internationally-agreed standards for the arms trade it will reduce human suffering by preventing arms from being used in serious violations of human rights and international humanitarian law. It will also help to combat terrorism and crime by steadily reducing the unfettered proliferation of weapons.

Since opening for signature on the third of June, over seventy states have signed the treaty and Iceland has become the first to complete ratification. Our commitment to the treaty now is as strong as ever, our goal has always been to secure a robust treaty that can be implemented by all. We will only accomplish our aims if the Arms Trade Treaty is rapidly and effectively implemented. Fifty ratifications are required to bring the treaty into force. We will be working hard to encourage states to sign and to ratify, to ensure swift entry into force. Like the negotiations on the treaty itself, this will take time and require the considerable efforts and persistence of a broad coalition of supporters. Universal adherence to the Arms Trade Treaty must be our ultimate goal.

Automotive Industry
Statement

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Viscount Younger of Leckie): My Rt. Hon Friend, the Secretary of State for Business, Innovation and Skills (Dr Vince Cable), has today made the following statement;

The Government has today published "Driving success – a strategy for growth and sustainability in the UK automotive sector", which has been produced in partnership with stakeholders from across the industry through the Automotive Council.

This strategy sets out a shared vision for a UK automotive manufacturing industry that is diverse, dynamic, growing and globally competitive, that makes a large and increasing economic contribution to employment and prosperity in the UK, that plays a decisive role in developing and manufacturing low and ultra-low emission vehicles and technologies, that is supported by a highly skilled workforce and a strong supply chain and that inspires young people to pursue careers in engineering and manufacturing.

This strategy focuses on opportunities from the move to ultra-low emission vehicles to 2040 and beyond, strengthening the domestic supply chain to rise to the challenge from a growing sector and take a £3 billion opportunity that has been identified, ensuring that industry are able to find enough people with the right skills and ensuring that the UK business environment can compete internationally as a location for automotive investment.

Key actions include investing around £1 billion over ten years in a new Advanced Propulsion Centre, improving access to finance through a new tooling finance framework and industry expecting to take on more than 7,600 Apprentices and 1,700 graduates over the next five years.

In addition to wider Automotive Council support for the strategy, the Advanced Propulsion Centre has received specific letters of support from 27 companies: Bentley, BMW Group, Bosch, BP, Castrol Innoventures, Caterpillar, Ford, GKN, High Value Manufacturing Catapult, Intelligent Energy, Jaguar Land Rover, JCB, Lotus, Mahle, McLaren Automotive, Millbrook, MIRA, Morgan, Nissan, Optare, Productiv, RDM Group, Ricardo, SMMT, Tata Motors, Transport Systems Catapult, and West Midlands Manufacturing Consortium.

I will place a copy of the strategy in the libraries of the House.

Companies: Transparency and Trust
Statement

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Viscount Younger of Leckie): My Rt. Hon Friend, the Secretary of State for Business, Innovation and Skills (Dr Vince Cable), has today made the following statement;

Today I am publishing a discussion paper which sets out a range of proposals to enhance the transparency of UK company ownership and increase trust in UK business. These measures will help prevent illegal activity; better enable companies to be held to account; and provide businesses, investors, employees and consumers with confidence that companies are acting fairly. They will support the development of a business environment where companies and individuals can operate and invest with confidence.

The first part of the paper puts forward measures to ensure we know who really owns and controls UK companies, following our G8 commitments on preventing the misuse of companies. The main elements of this section of the paper include:

1. Options for the implementation of a central registry of information on companies' beneficial ownership, maintained by Companies House. We propose that the registry would hold information on individuals with an interest in more than 25 per cent of the shares or voting rights in a company, or who otherwise control the way the company is run. We consider whether information in the registry should be made public, what information is to be provided and how it is to be updated.

2. A proposal to prohibit the issue of bearer shares. Bearer shares allow the owner of the shares to remain hidden as their name is not disclosed on a company's register of members. The paper proposes that holders of existing bearer shares should be given a set period of time to convert these shares to ordinary registered shares.

3. Options to enhance transparency around the use of nominee directors, including whether they should be required to disclose their status to Companies House and who they are acting for. While nominees can be used in legitimate commercial scenarios, their use can allow the true owners of a company to remain hidden.

4. A proposal to abolish companies from being appointed as directors ('corporate directors'). Although rarely used in the UK, these can result in complex corporate ownership structures which hide the beneficial owner's true identity.

The second half of the paper discusses disqualification rules and tackling directors who break the rules. This is especially important in the light of the corporate failures that took place during the financial crisis. The main elements of this section of the paper include:

1. Considering whether to amend the duties of bank directors so that there is a greater emphasis on the responsibility to promote financial stability (following the recommendation made by the Parliamentary Commission on Banking Standards).

2. Extending the factors taken into account by the court in disqualification proceedings. For example, allowing the court to consider the social impact of a director's actions, breaches of sectoral regulation and previous business failures when coming to a disqualification decision.

3. Proposals to give courts the power to make compensation awards against a director when making a disqualification order; and to allow liquidators to sell or assign fraudulent trading actions.

4. Offering directors education classes or training at the end of their disqualification or a slight reduction in this period if they take up the offer.

5. Extending the time limit for when disqualification action must be taken. Currently standing at two years, the paper proposes a new five year limit to take into account more complex insolvency cases.

6. Changing laws to prevent directors disqualified overseas from being a director of a UK company. The paper also considers allowing disqualification action to be brought against a director convicted of a criminal offence in relation to an overseas company.

The paper invites views from all interested parties by 16th September 2013. It is intended that measures will be implemented through, and at the same time as, transposition of the 4th EU Money Laundering Directive and changes to company law. I will seek to introduce reform by the end of this Parliament.

I remain committed to reducing regulation and burdens on business and will consult on a range of company law deregulatory proposals in the autumn. These proposals will be developed in parallel to measures outlined in this paper to deliver a cohesive package of reform.

I have today also published two further documents. First, the Terms of Reference for a review of pre-pack administrations. The review will specifically look at whether pre-packs encourage growth and employment and provide value for creditors. Defined as an administration where the assets are sold before an administrator is appointed, concerns have been raised in the past that pre-packs are not transparent, that assets may be sold at below value, that there are conflicts of interested and they unfairly affect competitors.

Second, a report on the review of insolvency practitioners fees by the independent reviewer, Emeritus Professor Elaine Kempson of Bristol University. The findings are that where experienced, and usually secured, creditors are in control of proceedings, IP fees are successfully monitored. Where the creditors are unsecured and disparate, controls over fees are not working. The Government will respond to the report later this year.

I have placed copies of the consultations and further details of the appointments in the libraries of the House.

Competition and Markets Authority
Statement

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Viscount Younger of Leckie): My Rt. Hon Friend, the Secretary of State for Business, Innovation and Skills (Dr Vince Cable), has today made the following statement;

I am today announcing that I have launched a consultation on a draft Ministerial statement of strategic priorities for the soon-to-be-created Competition and Markets Authority and a first tranche of draft Statutory Instruments updating the competition regime. This follows the Chancellor's announcement in the Spending Review last month that the budget of the new Competition and Markets Authority (CMA) will be increased by £16 million in 2015-16, to enable it to tackle cartels more effectively and open up markets to new entrants, disruptive technologies and greater investment. These are major steps in our reform of the competition regime, which should deliver significant economic benefits.

I have also made a decision on the appointments of the first team of Non-Executive Director (NEDs) members to the CMA, and I am delighted to announce the following appointments. Five NED positions will go to Annetje Ottow, William (Bill) Kovacic, Philip Lowe, Carolyn Fairbairn and Alan Giles; and the two Panel NED positions will go to Roger Witcomb and Jill May. I am also appointing Roger Witcomb as the Chairman of the CMA Panel.

All the NED appointees will formally commence their appointments on 1 October 2013 when the CMA is legally established. I have agreed to the ordinary NEDs' term end dates being staggered from between two and five years in order to avoid recruiting a whole new set of NEDs at the same time.

The skills and backgrounds of appointees have been taken into consideration when offering their end date to mitigate against losing members who share the same area of expertise (e.g. competition law or economics) in the same year. The appointments for both Roger Witcomb and Jill May are on the basis of an initial two year term.

The ordinary NED appointments have been made in accordance with the Commissioner for Public Appointments Code of Practice (April 2012) and the Panel NED appointments were made following the principles of the Code.

I have placed copies of the consultations and further details of the appointments in the libraries of the House.

ECOFIN

Statement

The Commercial Secretary to the Treasury (Lord Deighton): My right honourable friend the Chancellor of the Exchequer (George Osborne) has today made the following Written Ministerial Statement.

A meeting of the Economic and Financial Affairs Council was held in Brussels on 9 July 2013. The following items were discussed.

Presentation of the Lithuanian Presidency Work Programme

The Presidency outlined its work programme on economic and financial matters for July to December 2013.

Follow-up to the European Council on 27-28 June 2013

ECOFIN held an exchange of views on the follow-up to the June European Council.

Adoption of the euro by Latvia

ECOFIN adopted the legal acts enabling Latvian accession to the euro in January 2014.

Implementation of the two-pack

Ministers endorsed the Code of Conduct for the euro area Member States on draft budgetary plans and on content and scope of the reporting obligations for euro area Member States subject to an excessive deficit procedure.

Follow-up to G20 Finance Deputies meeting on 6-7 June (St Petersburg) and preparation of G20 Meeting of Finance Ministers and Governors of 19-20 July (Moscow)

Council agreed the EU Terms of Reference for the forthcoming G20 Finance Ministers' and Central Bank Governors' meeting. The Presidency and the Commission reported back to Council on the meeting of the G20 Finance Deputies meeting on 6-7 June.

Any other business – Current legislative Proposals

The Presidency updated Council that provisional agreement had been reached with the European Parliament on the Market Abuse Directive/Market Abuse Regulation.

Employment Law

Statement

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Viscount Younger of Leckie): My Hon Friend, the Parliamentary Under-Secretary of State for Employment Relations and Consumer Affairs (Jo Swinson), has today made the following statement;

The Coalition Government made a commitment to review employment legislation to ensure it provides the flexibility for employers without compromising fairness for employees. We have reported to Parliament at various points during the course of the Employment Law Review and the Employment-related law Red Tape Challenge, the steps we are taking to reform UK employment legislation.

The Government has already taken significant steps in reforming employment law. We are now seeking to further reform employment law to help employers and employees. These are intended to provide greater flexibility, greater certainty at the end of the employment relationship, and greater confidence and consistency in the employment tribunals system. We are also providing employers with important tools to uses settlement agreements confidently. We are also seeking evidence on effectiveness of the whistleblowing rules to establish whether any changes are needed.

Today, we are:

• Publishing the Government's response to the consultation on reforms to the rules governing the Recruitment Sector

We intend to proceed with replacing the current legislation with a new regulatory framework which removes some of the burden from business but continues to protect people who are looking for work. Regulation in the agency sector will be minimised and, for the most part, focussed where workers are most at risk of exploitation.

The new legislation will support the outcomes that the Government believes are key to ensuring that workers are protected and that the sector operates fairly and flexibly; that employment agencies and employment businesses are restricted from charging fees to work-seekers, there is clarity on who is responsible for paying temporary workers for the work they have done and that the contracts people have with recruitment firms should not hinder their movement between jobs.

Some responses to the consultation indicated that there may be abuse of upfront fees in the entertainment and modelling sector, so we intend to speak informally to a variety of stakeholders to better understand the issues.

We also intend to change the enforcement strategy in the agency sector by moving to a more focussed and targeted enforcement regime. In future we will focus government resource on helping the most vulnerable workers who need protection, particularly those on the national minimum wage (NMW), by moving resources from the Employment Agency Standards inspectorate within BIS to HM Revenue and Customs' NMW team. The NMW team will investigate complaints of non-payment but individuals will also be able to enforce their rights informally and through the courts. A small team will remain in BIS to enforce the remaining regulations which apply to agencies.

A copy of the full Government response is attached.

• Publish the Government's response to the consultation on how Early Conciliation will work in practice. This is an important part of implementing the change in the ERR Act which creates an obligation for individuals to approach Acas in the first instance to explore conciliation before being able to submit a claim to an employment tribunal.

This consultation was technical in nature, and sought views on how to administer the scheme in a way that ensures parties engage effectively with Acas, whilst not adding unnecessary delays to the dispute resolution process. Responses on the procedural forms, the Early Conciliation Support Officer model for conciliation, exemptions, limits on Acas attempts to contact parties and respondent lead Early Conciliation have not led to any substantial policy changes. They have helped us sharpen the proposed model however, and BIS will continue to work with Acas and HMCTS towards implementation in early 2014.

A copy of the full Government response is attached.

• Publish a Call for Evidence on the whistleblowing framework. In summary:

The Government believes that the overall framework works well, but changes in the way the labour market functions and ways of working since the introduction of the framework in 1998 mean that the time is right to look at the effectiveness. We would like to establish whether:

o The categories of disclosure which qualify for protection are still effective in capturing all instances of wrongdoing.

o The methods by which the disclosure is made are still relevant and effective.

o The list of prescribed individuals/bodies, i.e. to whom the disclosure can be made, captures the individuals and bodies sufficiently to ensure the whistleblower benefits from the protection.

o The coverage of the definition of worker is sufficiently broad to capture all those that need to be protected by the framework.

The call for evidence is attached.

Additional changes being made, and which this House has already scrutinised are:

• Bringing into effect Settlement Agreements. These offer a consensual and beneficial end to the employment relationship, avoiding the cost and distress of a tribunal. We are building on the existing system to facilitate their increased use, making it easier to make offers of settlement outside of dispute situations.

- A measure in the ERR Act 2013 makes the offer of a settlement agreement inadmissible as evidence in an unfair dismissal claim.

- The legislative change will be accompanied by a new Statutory Code of Practice and substantive guidance, to give employers and employees as much clarity and certainty as possible to negotiate settlement, including template letters and model agreements, and advice on how to negotiate settlement.

- The measure and statutory code will come into effect on 29 July.

• Commencement of ERR Act provisions on the Unfair Dismissal Compensation Cap:

- Bringing into force the measure in the ERR Act which caps the compensation element of Unfair Dismissal awards at 12 months' pay, in addition to the existing overall cap of £74,200 (the lower of which would apply in an individual case).

- This cap aims to give employers and employees more realistic expectations about unfair dismissal award levels.

- The draft Statutory Instrument which introduces this cap was laid before Parliament on 10 June, and is subject to the affirmative procedure. Subject to completing parliamentary approval process, we would into to bring this measure to come into force on 29 July.

• The new rules coming out of the Fundamental Review of Employment Tribunal Rules by Lord Justice Underhill have been laid in Parliament and will come into force on 29 July (to coincide with the planned introduction of ET fees). These changes will make tribunals easier to understand and more efficient. The rules are already in the public domain, and the announcement would help further signal the changes to users of the ET system and reassure stakeholders that Government is taking action to address weak or vexatious claims. At the same time, Government will also make some small amendments to the way in which interest is charged on Employment Tribunal

awards, designed to encourage prompt payment. This approach was set out in the Government response to Lord Justice Underhill's review.

These measures will reduce risks to employers, increase their flexibility to deal with workplace issues, and decrease the costs of resolving disputes. Business will have the support to resolve workplace disputes earlier and, if they proceed to employment tribunal, they will experience a quicker, more efficient process.

I will be placing copies of the documents in the libraries of the House.

Energy: Domestic Renewable Heat

Statement

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Baroness Verma): My right honourable friend the Minister of State, Department of Energy and Climate Change (Greg Barker MP) has made the following Written Ministerial Statement.

I am pleased to announce today the publication of DECC's policy document '*Renewable Heat Incentive: the first step to transforming the way we heat our homes*'. This meets the Government commitment, as set out in my statement to the House on 26 March, to publish the framework for providing longer term financial support to households for the installation of renewable heating technologies in summer 2013. We remain committed to opening the scheme for applications in spring 2014. This marks a major milestone in achieving our renewable heat goals; it builds on the successes of the Renewable Heat Premium Payment which has seen more than £20m spent on the installation of 16,000 plus domestic renewable heat systems over the last two years.

The domestic RHI will pay owners of solar thermal panels, biomass boilers and heat pumps for heat generated at the following levels: 7.3p/kWh for air source heat pumps; 12.2p/kWh for biomass boilers; 18.8p/kWh for ground source heat pumps and at least 19.2[1] p/kWh for solar thermal.

Alongside the policy statement, DECC is publishing the '*Domestic Renewable Heat Incentive: Government response to the September 2012 consultation proposals for a domestic RHI*' which explains in greater detail the rationale for the final Government position, stakeholder views and comments on original proposals outlined in the consultation document. We received over 400 responses to that consultation, and I would like to thank all those that submitted a formal response.

Government also consulted on proposals for expanding the existing non-domestic RHI scheme at the same time as we consulted on our proposals for domestic support. DECC is currently finalising the details of the expansion of the non-domestic RHI scheme and we will confirm the way forward in the autumn alongside the outcome of the tariff review. Our aim to introduce support through these changes from spring 2014 remains unchanged.

The Policy Statement, Government response and further supporting documentation can be found on gov.uk.

[1] This tariff is capped by reference to an assessment of the marginal cost of renewable energy. The tariff will be at least 19.2p, but may be higher depending on the outcome of further work. The announcement on the final tariff will be made in the autumn.

EU: Agriculture and Fisheries Council

Statement

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord De Mauley): My Right Hon Friend the Secretary of State for Environment, Food and Rural Affairs (Owen Paterson) has today made the following statement.

The next Agriculture and Fisheries Council is on Monday 15 July in Brussels. I will be representing the UK. Paul Wheelhouse MSP, Alun Davies AM and Michelle O'Neill MLA may also attend.

On fisheries business the Commission will give a presentation on the consultation on fishing opportunities for 2014. The Presidency will also seek agreement to a General Approach on the European Maritime and Fisheries Fund (EMFF).

Agriculture business will focus on the Common Agricultural Policy (CAP) reform package. At present there are six Any Other Business items;

- Neonicotinoids
- Labelling of meat from animals slaughtered without stunning
- Economic consequences to the Cyprus poultry sector due to the occurrence of Newcastle disease
- Food loss and waste
- Mislabelling of beef product is a presentation from the Commission
- North East Atlantic mackerel

EU: Health Council

Statement

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): My hon Friend the Parliamentary Under Secretary of State, Department of Health (Anna Soubry) has made the following written ministerial statement.

EU Health Ministers met in Vilnius, in Lithuania, on 8 and 9 July. I represented the UK. The agenda included discussions on sustainability of health systems, mental health and well-being of older people, and of smoking prevention in youth.

The meeting began with a discussion on sustainable health systems, with emphasis placed by the Presidency on the need to reduce health inequalities. There was broad agreement that innovation in technology is an important tool in making healthcare more efficient and affordable.

For the UK, I stressed that whilst the EU can add value to member states work on the three major life choices of smoking, obesity, and alcohol, it is important that the principle of subsidiarity is respected. I noted the important recent progress on the tobacco products

directive, which crucially allows member states to go beyond the requirements of the directive where this is essential for public health.

Many member states highlighted the importance of member states collaborating to learn from each other.

There was also a discussion on the mental health and well-being of older populations, during which I stressed the equal importance of mental and physical health, and the UK work on dementia.

The second day included discussions on smoking prevention in youth, focussing on nicotine containing products and on the marketing of tobacco.

The meeting concluded with an AOB item on differential pricing of medicines in member states. A variety of different views were expressed but the UK and a number of other Member States opposed the launching of any new EU initiative on the pricing of medicines as this is a matter of member state competence, whilst recognising the common issues faced by member states, particularly in relation to rare diseases.

Health: Learning Disabilities

Statement

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): My hon Friend the Minister of State, Department of Health (Norman Lamb) has made the following written ministerial statement.

I have today published the Department of Health's second progress report in response to the recommendations of the Parliamentary and Health Service Ombudsman and the Local Government Ombudsman in their March 2009 report "Six lives: the provision of public services to people with learning disabilities". At the same time, I am also publishing the Government's response to the recent Confidential Inquiry into the Premature Deaths of People with Learning Disabilities.

Six Lives: Progress report on healthcare for people with learning disabilities provides an assessment of the progress made since the previous progress report published on 14 October 2010 in health and social care services to fulfil the Ombudsmen's recommendations and improve health care and treatment for people with learning disabilities.

The report demonstrates that more people with learning disabilities than ever before have taken up the opportunity of an annual health check which will help improve their health and enable preventive interventions to stop potential health crises. The report also sets out priority areas for further progress including:

- giving greater voice and power to people with learning disabilities and their local communities to develop services for everyone, including those in vulnerable or marginalised groups;

- supporting the spread of personal health budgets for people with learning disability with greater integration across health and social care;

- ensuring that Health and Wellbeing Boards have information to support them in understanding the complex needs of people with behaviour that challenges; and

- working with NHS England to make sure that the system continues to monitor and improve the health and care outcomes of people with learning disabilities.

The Department of Health worked with Mencap and the British Institute of Learning Disabilities (BILD) to engage with and listen to people with learning disabilities and family carers about their views and experiences of healthcare to find out more about where progress had been made and where more work needs to happen. Alongside the second progress report, we are publishing a summary of the outputs from that engagement event, including the results of a questionnaire about whether healthcare is getting better for people with a learning disability.

Government response to the Confidential Inquiry into premature deaths of people with learning disabilities addresses all the Inquiry's recommendations, taking account of the changes to the health and care system which have been set in train since the Confidential Inquiry was established. The Department of Health, NHS England and other delivery partners will have an important role to play in leading change to improve access, experience and outcomes for people with learning disabilities and family carers. Specific changes include:

- using the Government's information strategy for health and care to drive improvements in the way in which we identify people with learning disabilities so that we can better respond to their needs;

- linking data about cause of death with other data such as the GP practice learning disability registers to better understand and respond to premature mortality among people with learning disabilities;

- using local mortality data on people with learning disabilities to inform Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategies;

- using the NHS Standard Contracts to better take account of and respond to people's needs;

- aiming to have a known contact for people with multiple long-term conditions to coordinate their care, communicate with different professionals and be involved in care planning with the individual;

- looking at introducing patient-held records for all people with learning disabilities who have several health conditions;

- looking at the Mental Capacity Act guidance, advice and training for professionals, that is available to inform decisions about people's care; and

- assessing with NHS England, Public Health England and other partners the costs and benefits of establishing a National Learning Disability Mortality Review Body.

For both the Six Lives progress report and the response to the Confidential Inquiry, we want to see a fundamental culture change so that people with learning disabilities, autism and those people with complex needs and behaviour that challenges and their family carers have the same rights as anyone else to accessing the best possible quality care and support. We expect this in turn to lead to better outcomes and fewer premature and avoidable deaths.

The Government is determined to work across the system to improve standards of care. Following events at Winterbourne View and Mid-Staffordshire hospitals, we have conducted thorough investigations and delivered strong responses to enable the system change and shift in attitudes needed to support people with learning disabilities and their families.

I want to put a stop to bad practice. Good practice must be our everyday expectation and services must strive for excellence. Everyone involved in the provision of services needs greater awareness of the personal impact they can make on the health and quality of life of people with learning disabilities so that poor practice and unacceptable health inequalities can be tackled head on.

Both the report and the response have been placed in the Library. Copies are available to hon. Members from the Vote Office and to noble Lords from the Printed Paper Office. The documents are also available at:

www.gov.uk/government/publications?departments[]=department-of-health

Hong Kong

Statement

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi): My Right Honourable Friend, the Secretary of State for Foreign and Commonwealth Affairs (William Hague) has made the following Written Ministerial Statement:

The latest Report on the implementation of the Sino-British Joint Declaration on Hong Kong was published today. Copies have been placed in the Library of the House. A copy of the report is also available on the Foreign and Commonwealth Office website (www.gov.uk/government/organisations/foreign-commonwealth-office). The Report covers the period from 1 January to 30 June 2013. I commend the Report to the House.

National Forest Company

Statement

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord De Mauley): My Hon Friend the Minister of State for Agriculture and Food (David Heath) has today made the following statement.

Today I am announcing a Triennial Review of the National Forest Company. The National Forest Company was set up in 1995 to oversee the creation of The National Forest – a multi-purpose forest across 200 square miles of the Midlands.

Triennial Reviews of Non-Departmental Public Bodies are part of the Government's commitment to ensuring accountability in public life.

This Review will be conducted in accordance with Government guidance for reviewing Non-Departmental Public Bodies. The Review will be carried out in an open and transparent way and interested stakeholders will be given the opportunity to feed in their views. I will announce the findings of the Review later in the year.

Further information on the Review is available on the Government website.

NHS: Liverpool Care Pathway

Statement

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): My hon Friend the Minister of State, Department of Health (Norman Lamb) has made the following written ministerial statement.

The Independent Review of the Liverpool Care Pathway has been published today. I commissioned this review in January 2013 in response to concerns raised by patients, families, carers and a number of clinicians. The review was undertaken by an independent panel chaired by the noble lady, Baroness Neuberger.

People who use health and care services have the right to be treated with respect, dignity and compassion by staff with the skills and time to care for them properly. We all want our own and our loved ones' final days and hours to be pain-free and dignified, with individual needs prioritised and respected, and with families and carers fully involved.

I recognise and value the high quality of much of end of life care across the country. On behalf of the Government, I would like to convey my continued support and appreciation for the work that so many doctors, nurses and others do on a daily basis to care for the dying. Whilst most patients certainly are receiving high quality care and many families and carers are being properly involved, we need to make sure that this is the case for everyone.

The Liverpool Care Pathway was introduced to improve end of life care by setting out principles for how the dying should be treated, whether they are in hospital, at home, in a care home or in a hospice. The review heard that when the Liverpool Care Pathway is operated by well-trained, well-resourced and sensitive clinical teams, it works well. However, it also heard too many examples of poor practice and poor quality care, with families and carers not being properly involved and supported. This has to change.

The review made a number of recommendations to Government and other health and care organisations. The Government will consider fully the recommendations of the review and over the coming months will be working with these organisations, stakeholders and charities to inform a full system-wide response to the review's recommendations in the autumn. However, I can announce at this point our intention for the Liverpool Care Pathway to be phased out over the next 6-12 months. Instead, an individual approach to end of life care for each patient will be introduced, with a personalised care plan backed up by condition-specific good practice guidance and a named senior clinician responsible for its implementation.

In addition, the Care Quality Commission will be undertaking thematic work on end of life care, and the three new Chief Inspectors – of Hospitals, Social Care and General Practice – will consider end of life care

issues as they develop their new approach to inspections. To support these improvements to end of life care, I am also writing to the General Medical Council and the Nursing and Midwifery Council to highlight both the need for effective guidance on supporting nutrition, hydration and sedation for the dying, but also to stress the importance of the professional regulation issues raised by the report.

However, it is clear that we need to take action immediately. I can therefore announce:

- to ensure immediate action for patients, families and carers, I have written to all NHS hospitals asking them to undertake a clinical review, led by a senior clinician, of each patient who is currently being cared for using the Liverpool Care Pathway or similar plans for the final days and hours of life to ensure that the care they are receiving is appropriate. I have also asked them to ensure that arrangements are put in place to provide assurance that every dying patient now and in the future has a named senior clinician responsible for their care. I will be writing in similar terms to those responsible for dying patients being cared for outside of hospital;

- it is equally important that the concerns about care are properly investigated and resolved. I will ensure that people who have a complaint about the care given to a dying patient on the Liverpool Care Pathway or similar plans have access to an independent assessment of their case should they want it. I have also asked all NHS hospitals to appoint a board member with responsibility for overseeing any complaints about end of life care and for reviewing how end of life care is provided; and

- the review also recommends that incentives paid to hospitals to promote a certain type of care for the dying should cease. In response, I am asking NHS England to work with Clinical Commissioning Groups to implement this immediately.

I would like to thank Baroness Neuberger, the review panel and their support team for their hard work and commitment. Finally, I would also like to thank all the contributors to the review, and in particular the families and carers of patients.

More care, less pathway: A review of the Liverpool care Pathway has been placed in the Library. Copies are available to hon Members from the Vote Office and to noble Lords from the Printed Paper Office.

Northern Rock (Asset Management) plc

Statement

The Commercial Secretary to the Treasury (Lord Deighton): My honourable friend the Economic Secretary to the Treasury (Sajid Javid) has today made the following Written Ministerial Statement.

On 11 December 2012, I informed Parliament via a Written Ministerial Statement that UK Asset Resolution (UKAR) had identified a pool of unsecured loans in the Northern Rock Asset Management (NRAM) portfolio where the loan documentation was not compliant with Consumer Credit Act requirements.

As a result, UKAR's Board commissioned Deloitte to conduct an enquiry into the specific circumstances of the issue, and any implications for UKAR's broader internal procedures and controls. Deloitte has concluded that the defects in CCA regulated loan letters and statements were created in 2008, before UKAR was established. The summary of the report, along with the recommendations on strengthening risk functions, is being published on UKAR's website today. UKAR's Board has accepted all of Deloitte's recommendations and has tasked senior management to develop an implementation plan, which the UKAR Board will hold senior management to account on delivering.

The link to the report can be found here: http://www.ukar.co.uk/media-centre/press-releases/2013.

Ordnance Survey: Performance Targets

Statement

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Viscount Younger of Leckie): My Rt. Hon Friend, the Minister of State for Business and Enterprise (Michael Fallon), has today made the following statement.

I am today announcing that performance targets have been agreed for Ordnance Survey for the period 2013-14. Ordnance Survey will report externally against these targets as is required of all Executives agencies in Government. The targets are:

• To achieve an operating profit before exceptional items, interest and dividends of £28.2 million for the financial year 1 April 2013 to 31 March 2014.

• To achieve a free cash flow before exceptional items of £15.8 million for the financial year 1 April 2013 to 31 March 2014.

• Some 99.6% of significant real-world features greater than six months old are represented in the database.

• To continue to reduce the underlying cost base of the core business by 5% per annum measured against a baseline of 2008-09 adjusted running costs.

• To achieve a customer index score of at least 80%.

• To achieve an innovation index score of at least 80.

These targets reflect Ordnance Survey's continuing commitment to customers, to continuing sustained achievement against the business strategy that has been in place and developed over previous years, to maintaining and delivering intelligent geographic information to all users, and to offering improved value for money for all, as well as a commitment to Government policies.

Powers of Entry

Statement

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach): The Protection of Freedoms Act (POFA) 2012 requires Ministers across Government to undertake a review of powers of entry

over a two year period due to conclude in early 2014. The Act requires Ministers who are members of the Cabinet with responsibility for powers of entry to examine their powers and to consider whether they are still necessary, proportionate and contain sufficient safeguards.

Ministers are required to report on outcomes of the review to Parliament by 1 May 2014.

During the passage of the Act, Ministers agreed to provide an update of progress of the review and I have today placed copies of the second six month progress report in the Library of the House.

Smoking: Tobacco Products

Statement

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): My Rt hon Friend the Secretary of State for Health (Jeremy Hunt) has made the following written ministerial statement.

The Government has today published *Consultation on the standardised packaging of tobacco products: summary report*. The consultation was undertaken, with the agreement of the Devolved Administrations, on a UK-wide basis and the summary report has been prepared and published by the Department of Health.

Reducing the health harms caused by smoking tobacco in England is a public health priority for the Government and the United Kingdom is recognised across the world for having comprehensive, evidence-based tobacco control strategies.

Standardised packaging of tobacco products refers to measures that may be taken to restrict or end the use of logos, colours, brand images or promotional information on packaging other than brand names and product names that are displayed in a standard colour and typeface.

The consultation sought views on whether standardised tobacco packaging would:

- reduce the appeal of tobacco products to consumers;

- increase the effectiveness of health warnings on the packaging of tobacco products;

- reduce the ability of tobacco packaging to mislead consumers about the harmful effects of smoking; and

- have a positive effect on smoking-related attitudes, beliefs, intentions and behaviours, particularly among children and young people.

Many thousands of responses to the consultation were received, and the views expressed were highly polarised, with strong views put forward on both sides of the debate and a range of organisations generating campaigns and petitions. Of those who provided detailed feedback, some 53% were in favour of standardised packaging while 43% thought the Government should do nothing about tobacco packaging.

Having carefully considered these differing views, the Government has decided to wait until the emerging impact of the decision in Australia can be measured before we make a final decision on this policy in England.

Currently, only Australia has introduced standardised packaging, although the Governments of New Zealand and the Republic of Ireland have committed to introduce similar policies. Standardised packaging, therefore, remains a policy under consideration.

In the meantime, the Government in England will continue to work to reduce smoking rates through ending the display of tobacco in all shops, running national behaviour change campaigns to encourage smokers to quit and through supporting local authorities to provide effective stop smoking services. Our strategy is working – we are recognised as the leading country in Europe for tobacco control and for the first time since records began, adult smoking rates are under 20%.

Consultation on the standardised packaging of tobacco products: summary report has been placed in the Library. Copies are available to hon. Members from the Vote Office and noble Lords from the Printed Paper Office. The document is also available from

www.gov.uk/government/consultations/standardised-packaging-of-tobacco-products

The consultation exercise fulfilled our commitment in Healthy Lives, Healthy People: A Tobacco Control Plan for England which sets out our comprehensive, evidence-based, programme of tobacco control for England.

Supply and Appropriation (Main Estimates) Bill

Statement

The Commercial Secretary to the Treasury (Lord Deighton): I have made a statement under Section 19(1)(a) of the Human Rights Act 1998 that, in my view, the provisions of the Supply and Appropriation (Main Estimate) Bill are compatible with the convention rights. A copy of the statement has been placed in the Library of the House.

Written Answers

Monday 15 July 2013

Agriculture: Genetically Modified Crops

Questions

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

To ask Her Majesty's Government whether have made any assessment of the paper Sustainability and innovation in staple crop production in the US Midwest by Jack A Heinemann et al, published on-line in the International Journal of Agricultural Sustainability on 14 June; and, if so what assessment they have made of that paper's analysis of the yields of genetically modified crops and their requirements for pesticides and herbicides. [HL1271]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord De Mauley): This paper needs to be considered alongside the other available evidence on the impact of GM crops. On yields, it should be recognised that the current GM herbicide-tolerant and insect-resistant crops are intended to facilitate weed and pest control rather than confer an intrinsic yield benefit. However, a number of other studies point to GM insect-resistant crops increasing output by reducing levels of pest damage. That includes in respect of the only major experience so far with GM cultivation in the EU, where Spanish farmers growing GM maize have had better yields than their non-GM counterparts in areas of significant pest pressure. Other evidence also suggests that GM insect-resistant crops lower pesticide usage, and that GM glyphosate-tolerant crops have a lower environmental impact than the crops they replace, because glyphosate is less toxic and more biodegradable than other herbicides.

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

To ask Her Majesty's Government how many of the 50 European Union-funded projects on the safety of genetically modified products have involved long-term feeding studies designed to establish genetically modified organism toxicity or safety. [HL1331]

Lord De Mauley: In his speech about GM technology at Rothamsted Research on 20 June, the Secretary of State noted that the EU has funded more than 50 projects on GM safety. None of these involved long-term animal feeding studies. As a minimum, the EU assessment of proposed GM food and feed products is based on repeated-dose 28-day oral toxicity studies in rodents to demonstrate the safety of newly expressed proteins. Recognised good practice for GM safety assessments envisages that in certain circumstances it may be necessary to conduct a 90-day feeding trial with the GM food, and the need for and extent of additional feeding trials is considered on a case-by-case basis. In April 2013 a standard requirement for a 90-day rodent feeding trial was introduced by the EU for many types of GM crop.

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

To ask Her Majesty's Government whether all plants genetically modified with Bacillus thuringiensis meet the World Health Organisation and United Nations Food and Agriculture Organisation criteria on the safety of potentially allergenic genetically modified crops are approved. [HL1459]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): In line with the Food and Agriculture Organization of the United Nations World Health Organization internationally agreed guidelines for the safety assessment of genetically modified (GM) plants, a weight-of-evidence approach is recommended when assessing the potential allergenicity of a newly expressed protein, whether derived from Bacillus thuringiensis, or any other organism. This takes into account all of the information obtained with various test methods, as no single experimental method yields decisive evidence for allergenicity.

GM crops are only approved in the European Union if they have been favourably assessed by the European Food Safety Authority, which carries out its assessments in accordance with Codex Alimentarius guidelines.

Agriculture: Herbicides

Question

Asked by ***Lord Pearson of Rannoch***

To ask Her Majesty's Government what is their latest assessment of the use of Azulene; and what other herbicides they recommend to control bracken. [HL1517]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord De Mauley): An emergency authorisation was issued on 20 May 2013 for use of the product Asulox (active substance asulam) for bracken control in amenity vegetation, forest, grassland and moorland this year. Emergency authorisations are used to control a danger which cannot be contained by any other reasonable means and require an assessment of the risks to people and to the environment. In accordance with the authorisation, use of Asulox must end on 31 October 2013.

Other herbicides containing substances such as glyphosate may be used to control bracken where they are authorised for that purpose, but are not selective and will also kill non-target plants. Non-chemical methods of bracken control may also be possible in certain situations.

Agriculture: Wheat

Question

Asked by ***Lord Marlesford***

To ask Her Majesty's Government, further to the Written Answer by Lord Henley on 2 December 2010 (WA 480–1), whether they will publish an updated table showing the average price of feed wheat in the United Kingdom each year since 1996, based on averages of weekly ex-farm prices provided by the Home Grown Cereals Authority. [HL1398]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord De Mauley): The average annual prices of feed wheat for the calendar years 1996 to 2012 are shown in the table below. The prices are derived from corn return (ex-farm) price data reported to the Home Grown Cereals Authority on a weekly basis for first hand purchases of British grain direct from growers, and quarterly levy data.

Year	*Feed wheat price £/t*
1996	111
1997	89
1998	75
1999	73
2000	66
2001	71
2002	67
2003	69
2004	78
2005	66
2006	72
2007	99
2008	127
2009	108
2010	113
2011	148
2012*	163

*The 2012 price is provisional and may be subject to change.

These prices are reported in Agriculture in the United Kingdom which is available from the following link: https://www.gov.uk/government/organisations/department-for-environment-food-rural-affair/series/agriculture-in-the-united-kingdom#statistical-data-sets.

Banking

Question

Asked by ***Lord Myners***

To ask Her Majesty's Government by which date United Kingdom banks must reach the 3 per cent capital to assets leverage requirement set by the Prudential Regulatory Authority. [HL1263]

The Commercial Secretary to the Treasury (Lord Deighton): The matters raised are for the Prudential Regulation Authority (PRA), whose day-to-day operations are independent from government control and influence.

Banking: Bonuses

Question

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government, further to the Written Answer by Lord Deighton on 21 May (WA 42) on the use of Article 53(1) of the Lisbon Treaty as the legal basis for the Capital Requirements Directive IV, whether they have now concluded their assessment of the legal implications; if so, what are the results; and if not, when they expect to conclude their assessment. [HL1285]

The Commercial Secretary to the Treasury (Lord Deighton): The final text of the Capital Requirements Directive (CRD4) was published in the Official Journal of the EU on 27 June 2013. The Government has not yet concluded its assessment of the legal implications of the requirement to limit bonuses under CRD4. This will be concluded following detailed consideration of the final text over the Summer.

Benefits

Question

Asked by ***Lord Beecham***

To ask Her Majesty's Government, further to the Written Answer by Lord Freud on 3 July (WA 212–3), why the expected numbers and savings "are only available for Great Britain"; whether such data can be disaggregated to regional or local authority levels; and, if not, why not. [HL1390]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud): DWP forecasts are produced at a Great Britain level. Forecasts are not produced below this level since the Office for Budget Responsibility economic forecasts on which DWP's claims forecasts are based are not available below this level. The waiting days costings will be particularly sensitive to changes in the distribution of new claims across regions.

Burma

Questions

Asked by ***Baroness Nye***

To ask Her Majesty's Government whether they are planning to provide technical assistance and training to the Burmese military on specific measures to professionalise and reform its recruitment practices, with a view to preventing child recruitment.[HL1383]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi): During his recent visit to Burma from 2-4 June, the Chief of Defence Staff met the Burmese Commander in Chief and other senior military figures in the first high level engagement between the British Government and the Burmese military. Our objective, as the Chief of Defence Staff explained to the Burmese, is to support the reform process by taking actions to facilitate the democratisation of the Burmese military, ensuring it is subservient to the civilian government and institutions. We plan to begin the provision of technical assistance later this year, focusing on this objective. Our current non resident Defence Attaché, and his resident successor who will follow in November, will explore options for further technical support, including the sharing of expertise on preventing child recruitment.

Asked by ***Baroness Nye***

To ask Her Majesty's Government whether they are taking action to encourage the Burmese military to introduce and adopt measures which prevent the recruitment of underage soldiers, following the meeting

of Hugo Swire MP, Minister of State at the Foreign and Commonwealth Office, with the Defence Minister of Burma in December 2012. [HL1384]

Baroness Warsi: During his meeting with the Burmese Defence Minister as part of his visit to Burma in December 2012, the Minister of State for Foreign and Commonwealth Affairs, my right hon. Friend the Member for East Devon (Mr Swire), raised many of our concerns about issues relating to human rights and welcomed the Burmese government's commitment to end the recruitment of child soldiers. However, progress on the release of child soldiers and the prevention of continuing recruitment has been slow. We are currently working on a resolution regarding Burma's progress on its Action Plan with our partners on the UN Security Council Working Group on Children in Armed Conflict. We aim to ensure that this text can be used by the international community to facilitate stronger progress than to date by the Burmese military.

Asked by ***Baroness Nye***

To ask Her Majesty's Government whether they are taking action to ensure that the United Nations Security Council Working Group on Children and Armed Conflict requires the government of Burma to implement effectively the action plan to prevent the recruitment and use of children by its armed forces, signed with the United Nations in June 2012, particularly in relation to the provision of access to all military sites and border guard forces in Burma. [HL1386]

Baroness Warsi: We are currently working on a resolution regarding Burma's progress on its Action Plan with our partners on the UN Security Council Working Group on Children in Armed Conflict. The eventual resolution will be the result of negotiations between all members of the Security Council, and will require consensus. The British Government will push for a text that highlights the challenges remaining, of which the provision of access to key military sites is one of the most fundamental.

Businesses: Graduate Entrepreneurs

Question

Asked by ***The Lord Bishop of Derby***

To ask Her Majesty's Government what resources are available for graduate entrepreneurs for start-up businesses. [HL1298]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Viscount Younger of Leckie): We want more businesses to develop in the UK in order to drive economic growth and innovation. We are intervening early to drive ambition by encouraging an entrepreneurial mindset in young people through activities in schools, colleges and universities. The experience of enterprise through education helps give young people the knowledge and awareness of what it means to run a business.

Higher Education Institutions (HEIs) can also help to bridge the gap into the world of business. For example, the Higher Education Funding Council for England (HEFCE) provides £160m per annum through Higher Education Innovation Funding (HEIF) to English HEIs to enable them to work with businesses and others. This can also be used to support student and academic enterprise, including start-ups and spin-outs. The latest Higher Education-Business and Community Interaction Survey (HE-BCI) indentified that, in 2011/12, 2,359 graduate start-ups were generated from English HEIs and 2,315 Graduate start ups were still active after at least three years.

We are also supporting other initiatives that help young people who are ready to start their own business. For example we have made available over £117.5 million of funding to boost enterprise amongst 18-30 year olds across England through the Start-Up Loan Scheme. On 5 June Government announced the scheme's 5,000th loan at an event at Number 10 to pledge further support for small businesses.

There is also a wide range of advice and information for young people who want to start a business available at GOV.UK website and also the GREAT website, which links to sources of business support from Government and the private sector. Young people can also take advantage of Mentorsme.co.uk which provides a single point of access for those seeking a business mentor.

For young people who have innovative ideas there is the Technology Strategy Board which is the Government's prime channel for supporting business-led technology innovation. It delivers a range of grant-based programmes in support of businesses undertaking research and development, including the Smart programme and Innovation Vouchers scheme. Smart supports pre-start ups, start-ups and Small and Medium-Sized Enterprises (SMEs) with 'Proof of Market', 'Proof of Concept' and 'Development of Prototype' activities.

Innovation Vouchers enable small businesses, including start-ups, to work with universities and other innovation advisers to help them gain new knowledge and help the businesses to innovate, develop and grow.

Finally, we are helping international students with a genuine and credible business and entrepreneurial skills to remain in the UK to establish a business. Those who graduate in the UK can be endorsed and supported by UK Higher Education Institutions, whilst UKTI is also seeking to attract the best entrepreneurial talent, from overseas universities, to the UK.

Children: Sexual Exploitation

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government what is their timetable for signing and ratifying the Council of Europe Lanzarote Convention against Sexual Exploitation of Children. [HL1429]

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach): The UK signed the Council of Europe's Convention on the Protection of

Children from Sexual Exploitation and Sexual Abuse in May 2008. Officials are currently leading the work to examine what else needs to be done under domestic legislation and in terms of the practical arrangements before the UK can be assessed to be fully compliant. This work will confirm the timetable for ratification of the Convention.

Children: Sexually Explicit Material

Question

Asked by ***Baroness Benjamin***

To ask Her Majesty's Government what steps they are taking to prevent young children from watching highly sexualised music video content online. [HL1132]

Lord Gardiner of Kimble: Currently under the Video Recordings Act 1984, music DVDs are exempt from any requirement to be age rated by the British Board of Film Classification and thus can be supplied to anyone of any age. Following a full public consultation on this issue, in May 2013 Government announced it would be bringing forward legislation to ensure that music DVDs—and DVDs in other exempt genres—are age rated by the BBFC in future if they are unsuitable for children younger than 12.

Government also announced that more would be done to help ensure parents can make informed decisions about the video content their children may wish to access online. We are asking industry to develop solutions by the end of the year so that more online videos, especially those such as music videos that may be popular with children, carry advice about their age-suitability and content. We want to make sure content labels are clear and easily understandable to British families and that age ratings can be tagged and incorporated into the meta data of the content file so that parental content control software can recognise them.

Council Tax

Question

Asked by ***Baroness King of Bow***

To ask Her Majesty's Government whether they are taking action to encourage those authorities that are charging former Council Tax Benefit recipients more than 8.5 per cent Council Tax in 2013–14 to make amendments to their local schemes in 2014–15. [HL1373]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): The expectation continues to be that local authorities will be taking all possible steps to help hard-working families with their cost of living, keeping down pressure on council tax bills by sharing services and back office functions, cutting wasteful expenditure, and smarter procurement. In addition, it was announced in the Spending Round that funding would be available to freeze council tax for a further two years, covering 2014-15 and 2015-16.

Councils have set up their own council tax support schemes and should have taken into account the impact on vulnerable people in designing their schemes. It is not in authorities' interests to design schemes which mean people cannot make payments nor lock people into a cycle of poverty and low aspiration.

Crime: Domestic Violence

Question

Asked by ***Baroness Howe of Idlicote***

To ask Her Majesty's Government what research evidence has been published since 2008 into the effectiveness of the domestic violence, stalking and honour-based crime risk assessment. [HL1471]

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach): The Home Office has not undertaken or published any research evidence into the effectiveness of the domestic violence, stalking and honour-based risk assessment.

Embryology

Questions

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

To ask Her Majesty's Government what were the reasons for the conclusion by the Human Fertilisation and Embryology Authority's review panel in their report Scientific review of the safety and methods to avoid mitochondrial disease through assisted conception: update, published in March, that 'pronuclear transfer in a non-human primate model with the demonstration that the offspring derived are normal" was no longer a critical or mandatory experiment; and what was the evidence underlying the decision that mice should be used for such experiments instead of macaques. [HL1262]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): The Human Fertilisation and Embryology Authority (HFEA) has advised that the reasons and evidence to which the noble Lord refers, relating to the conclusions of the independent expert review panel, convened by the HFEA, in its report, *Scientific review of the safety and methods to avoid mitochondrial disease through assisted conception: update*, published in March, are outlined in the report and the minutes of the panel's meetings which are available on the HFEA's website at:

www.hfea.gov.uk/6372.html

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

To ask Her Majesty's Government whether they intend to publish the independent review of the Human Fertilisation and Embryology Authority and the Human Tissue Authority that was submitted by Dr Justin McCracken to ministers in April; if so, when; and if not, why not. [HL1304]

Earl Howe: We intend to publish the report of the independent review of the Human Fertilisation and Embryology Authority and the Human Tissue Authority by Justin McCracken shortly. The Government response to the McCracken report will be published at the same time.

EU: Legislation

Question

Asked by ***Lord Berkeley***

To ask Her Majesty's Government which European Union transport legislation enacted during the last ten years has not been transposed into United Kingdom legislation by the due date. [HL1356]

Earl Attlee: The Department for Transport tracks EU directives within its remit in a spreadsheet which, inter alia, notes both the original transposition deadline for the directive and any later agreed transposition date (for example, where an informal waiver has been given by the Commission). When transposition is complete, the Department notifies the European Commission via the National Execution Measures ("NEM") website.

A table has been placed in the Libraries of the House which contains a list of directives from the past ten years, taken from our tracking spreadsheet – alongside their original transposition deadlines and any later agreed transposition date. This has been compared against the date on which we notified full transposition via the NEM website. We have included in this list all directives which were notified via NEM later than the original transposition date.

It should be noted that the UK notifies transposition of directives on behalf of Gibraltar, and transposition in the UK Member State cannot be marked as fully complete until Gibraltar has also fully transposed the directive. For the purposes of this answer, we have ignored Gibraltarian transposition and instead only looked at the UK itself.

Forced Marriage

Question

Asked by ***Baroness Uddin***

To ask Her Majesty's Government, in the light of the forthcoming proposed legislation on forced marriage, whether they will publish the list of women's organisations they have consulted and the evidence they have received from them. [HL1433]

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach): A list of the women's organisations the Government consulted with during the forced marriage consultation period is provided in the table below. A summary of the responses to the consultation was published in June 2013—this can be found on the GOV.UK website: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/157829/forced-marriage-response.pdf

An-Nisa Society
Ann Craft Trust
Albert Kennedy Trust
Asha Project
Ashiana Project
Ashiana Sheffield
Birmingham Women's Aid
Eaves Housing
ECPAT UK
Forward
Freedom Charity
Henna Foundation
Imkaan
Independent Choices
Iranian & Kurdish Women's Rights Organisation
JAN Trust
Karma Nirvana
Kurdish & Middle Eastern Women's Organisation
Kiran Project
Liverpool Forced Marriage and Honour Based Violence Steering Group
Local Solutions Organisation
Manchester Women's Aid
Muslim Women's Network
National Council of Women GB
Newham Asian Woman's Project
Odysseus Trust
Plan UK
Practical Solutions
Refuge
Resolution Organisation
Respond
Rights of Women
Roshni
Saheli Project
Save Your Rights
Soroptimist International
Southall Black Sisters
The Sky Project
West Mercia Women's Aid

Health: Cardiology

Question

Asked by ***Lord Colwyn***

To ask Her Majesty's Government what specifications are in place for the specialised commissioning of implanted cardioverter defibrillator and cardiac resynchronisation therapy until October 2013, following the recent publication of the interim specifications for those treatments. [HL1284]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): Specifications and policies relating to complex invasive cardiology have been published on the NHS England website. This includes a specification for cardiology implantable cardioverter defibrillators and cardiac resynchronisation therapies.

In anticipation of revised commissioning arrangements for prescribed specialised services from 1 April 2013, NHS England developed a range of new specifications and policies to describe the standards and range of services to be available to patients nationally, based on specialist clinical advice. These were subject to a period of public consultation, with feedback informing the final policy and specification documents subsequently published on NHS England's website.

It was agreed that the policies would be adopted for implementation from 1 April 2013 since they describe the treatments that are, or are not, routinely funded and it felt important that eligibility for care was as equitable as possible from day one of NHS England's establishment as the single commissioner of specialised services.

It was agreed that for the new specifications, however, it would be reasonable that providers were given a period of six months to achieve the standards and pathways of care required, since in some cases this requires recruitment of staff, changes to physical infrastructure or changes in the way in which care is configured or provided. These specifications are therefore currently published with a watermark indicating that they are 'interim for adoption from 1 October 2013'.

Area Teams of NHS England are currently working with providers to identify any gaps in 'convergence' with the national specification requirements and jointly agreeing and overseeing the delivery of action plans where further progress is required.

Health: Drugs Pricing

Questions

Asked by ***Lord Clement-Jones***

To ask Her Majesty's Government, further to the Written Answer by Earl Howe on 24 June (WA 93), what arrangements will be in place for patients to access cancer drugs previously considered but not recommended by the National Institute for Health and Care Excellence and which are also not subject to a value-based pricing assessment. [HL1392]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): In the context of developing the new pricing arrangements, we are exploring ways in which patients can continue to benefit from innovative cancer drugs at a cost that represents value to the National Health Service.

Where the National Institute for Health and Care Excellence has not recommended a drug in its technology appraisal guidance, it is for the relevant NHS commissioner to make a decision on its funding. NHS commissioners are required to have in place clear and transparent arrangements for considering applications for funding, including on an exceptional basis.

Asked by ***Lord Clement-Jones***

To ask Her Majesty's Government, further to the Written Answer by Earl Howe on 24 June (WA 93), what involvement they envisage for clinicians in value-based pricing assessments of cancer drugs previously considered but not recommended by the National Institute for Health and Care Excellence. [HL1393]

To ask Her Majesty's Government, further to the Written Answer by Earl Howe on 24 June (WA 93), whether (1) cancer patients, and (2) groups representing cancer patients, will be involved in value-based pricing assessments of cancer drugs previously considered but not recommended by the National Institute for Health and Care Excellence. [HL1394]

Earl Howe: The National Institute for Health and Care Excellence (NICE) will be responsible for the full value assessment of new medicines as part of value-based pricing. We have given NICE Terms of Reference for this work and NICE will now take this forward to develop the value assessment methodology. As part of this process, there will be engagement opportunities for the full range of stakeholders, including clinicians, cancer patients and their representative groups, to feed in their views.

Our expectation is that, as with its current technology appraisal process, NICE will consult widely in developing its value assessments.

Health: Mitochondrial Disease

Question

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

To ask Her Majesty's Government who composed the Press Release by the Department of Health and the Human Fertilisation and Embryology Authority "Innovative genetic treatment to prevent mitochondrial disease", issued on 28 June; what is the treatment referred to that "could save around 10 lives each year"; to which types of condition such treatment is expected to apply; and whether it is intended that the treatments and techniques involved should be applied to more cases each year. [HL1303]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): The press release to which the noble Lord refers was prepared by the Department taking account of an estimate provided by the Wellcome Trust Centre for Mitochondrial Research at the Newcastle University, from the research team working on the prevention of the transmission of mitochondrial DNA disorders from mother to child. The centre estimates that mitochondria replacement techniques could save the lives of up to 10 babies who are born every year with a severe form of the disease, such as those with high levels of mutations.

As specified in the Human Fertilisation and Embryology Act 1990, as amended, this technique may only be used to prevent the transmission of serious mitochondrial disease. The Government has announced that draft regulations, that would enable the clinical use of mitochondria replacement techniques in the United Kingdom, will be published for public consultation later in the year. Clinics wishing to use these techniques in treatment would need to apply to the Human Fertilisation and Embryology Authority for a licence. The Government cannot give an estimate of the likely number of such applications.

Health: Monitor

Question

Asked by ***Lord Turnberg***

To ask Her Majesty's Government whether Monitor is challenging Torbay Health Trust for anti-competitive behaviour in seeking to integrate its services with those in the community; and, if so, why. [HL1475]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): Monitor has not taken any investigative or enforcement action in relation to Torbay and Southern Devon Health and Care NHS Trust.

Organisations in Torbay have submitted an expression of interest to become an integration pioneer. This expression of interest is currently being assessed as part of a process that includes input from Monitor and a range of other national organisations and experts. The final decision about selection will be made by the collaboration of national partners in the autumn.

Health: Neuromotor Immaturity

Question

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

To ask Her Majesty's Government what assessment they have made of the statement by the head of the Institute for Neuro-Physiological Psychology in The Daily Telegraph on 1 July that, in children whom that organisation has assessed, neuromotor immaturity has increased over the past twenty years from 1 per cent to 10 per cent in children conceived by in vitro fertilisation. [HL1307]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): The Human Fertilisation and Embryology Authority (HFEA) has advised that it is aware of the study to which the statement refers. The Authority has issued a statement about the study that can be found on its website at:

www.hfea.gov.uk/7909.html

The HFEA has also advised that it will take note of the study as part of its horizon scanning process.

Housing

Questions

Asked by ***Lord Greaves***

To ask Her Majesty's Government how many units of council and former council housing have been sold in each local housing authority since the introduction of the Right to Buy scheme; what proportion of the total stock of council and former council housing in each authority that represents; and how many units in each authority that have been sold under the Right to Buy scheme are now in the privately rented sector. [HL1302]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): Figures on sales of local authority owned dwellings in each local authority area since 2009/10 are available in Live Table 685, on the Department's website here—https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/200525/Table_685_version_2_.xls

Figures on sales of former council housing at local authority level are not available.

Figures on sales as a proportion of stock in each authority are not available. However, it is possible to produce approximate estimates for 2009-10 and subsequent years by combining figures from Live Table 685 (as above) and Live Table 125; https://www.gov.uk/govemment/uploads/system/uploads/attachment_data/file/192184/LiveTable125.xls

Figures on the number of sold units now in the privately rented sector are not available.

Under our reinvigorated Right to Buy scheme, the Government's aim is that for every additional property sold under Right to Buy, a new affordable home for rent will be built nationally. Therefore as a whole, this will increase home ownership, augment the overall housing stock, and boost construction, as an affordable home will be provided to someone who previously did not have one.

Asked by ***Lord Greaves***

To ask Her Majesty's Government what proportion of United Kingdom housing stock was owner-occupied for each of the past ten years; what is their estimate of that figure for each of the next five years; whether they consider that owner-occupation is the best form of tenure for families and other settled households; and whether they have a policy target for the proportion of the housing stock that is owner-occupied. [HL1326]

Baroness Hanham: The table below shows the proportion of tenure type within dwellings in the United Kingdom, for the last 10 years.

(%)	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*	*2011*
Owner Occupied	69.3	68.6	69.2	69.1	68.4	68.0	67.2	66.2	65.6	64.9

The Department has not estimated the expected proportion of owner-occupied dwellings in the United Kingdom over the next five years.

Our aim is to help people achieve their aspiration to live in a home that gives them security to plan for their future. The Government is committed to seeing a major increase in the supply of new homes across all tenures. We do not have a target for the proportion of different tenures in the housing stock.

We are supporting those people who aspire to homeownership through our Help to Buy: Equity Loan scheme which saw over 4,000 reservations in the first two months alone. For people who choose to remain in the rented sector we are currently piloting innovative new funding models through the Build to Rent fund and Housing Guarantees scheme to expand choice and availability in the sector. We have also delivered over 84,000 affordable homes in the first two years of our Affordable Homes Programme.

I would observe that the number of first time buyers is now at its highest level since 2007 and affordability for first time buyers remains close to its most favourable level since 2003 (*Halifax press release*, 29 December 2012). But there is more to do to help people move onto and up the housing ladder.

Iran

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government what steps they are taking to restore a minimum level of diplomatic relations with Iran; and whether there are any preconditions for such a step on either side.[HL1337]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi): Diplomatic relations with Iran are already at the minimum level. Our respective Embassies are closed but arrangements are in place for Sweden to look after UK interests in Iran, and Oman to look after Iranian interests in the UK. Until we can be confident that Iran will abide by its obligations to protect our staff and allow them to carry out their functions, we will not have a diplomatic presence in Tehran.

Iraq

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government when they expect to sign and implement the agreement with Iraq for the transfer of convicted persons. [HL1430]

The Minister of State, Ministry of Justice (Lord McNally): Negotiations between the United Kingdom and Iraq on a possible prisoner transfer agreement are ongoing. It is not possible to say when these negotiations will be concluded. However, we hope that the Agreement will be signed before the end of the year. Both countries will then need to complete their internal constitutional arrangements necessary to bring the Agreement into force.

Nepal

Question

Asked by ***Baroness Kinnock of Holyhead***

To ask Her Majesty's Government what is their assessment of the definition of citizenship currently being proposed by the Constituent Assembly in Nepal; and whether any children born to trafficked women are being excluded from citizenship in that country. [HL1379]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi): A number of proposals on citizenship were made during the life of Nepal's Constituent Assembly. The Assembly was dissolved in May 2012 without agreement on this provision.

The current Interim Constitution of Nepal (2007), the Citizenship Act of 2006, and a 2011 Supreme Court decision all provide for citizenship if a child is born to a Nepali mother or a Nepali father. However, implementation of this provision has been poor, and it remains in practice difficult to secure citizenship by descent on the mother's side in Nepal. Children born to trafficked Nepali women are therefore at risk of being unable to get citizenship in Nepal.

NHS: Accident and Emergency Departments

Questions

Asked by ***Baroness McDonagh***

To ask Her Majesty's Government how many accident and emergency units it has been decided will close since June 2010; and what are their names. [HL1423]

To ask Her Majesty's Government how many accident and emergency unit closures are currently under consultation; and what are their names. [HL1424]

To ask Her Majesty's Government how many accident and emergency units are currently being considered for closure and are in the pre-consultation stage; and what are their names. [HL1425]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): This information is not collected centrally. Reconfiguration of NHS services is a matter for the local NHS.

Asked by ***Baroness McDonagh***

To ask Her Majesty's Government how many NHS patients have waited longer than 4 hours for treatment in accident and emergency units in each quarter since January 2010. [HL1426]

Earl Howe: Information showing how many patients waited longer than four hours in accident and emergency (A&E) departments from arrival to admission, transfer or discharge in each quarter since January 2010 is shown in the following table.

Year	*Quarter*	*A&E attendances > four hours from arrival to admission, transfer or discharge Total (all types)*
2009-10	Q4: Jan - Mar	102,163
2010-11	Q1: April - June	86,672
-	Q2: July - Sept	106,799
-	Q3: Oct - Dec	184,263
-	Q4: Jan - Mar	179,380
2011-12	Ql: April - June	162,348
-	Q2: July - Sept	144,843
-	Q3: Oct - Dec	191,920
-	Q4: Jan - Mar	225,832
2012-13	Q1: April - June	187,752
-	Q2: July - Sept	167,921
-	Q3: Oct - Dec	231,969
-	Q4: Jan - Mar	313,769

Year	Quarter	A&E attendances > four hours from arrival to admission, transfer or discharge Total (all types)
2013-14	Q1: April - June	241,144

Source:
NHS England

NHS: Migrant Access and Charges

Questions

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

To ask Her Majesty's Government what assessment they have made of the estimate by Clare Gerada, Chair of the Council of the Royal College of General Practitioners, that the staff costs of charging migrants from outside the European Union a levy for making use of primary healthcare will amount to £500 million. [HL1402]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): The Government has made no assessment of any estimate reportedly made by the Chair of the Council of the Royal College of General Practitioners.

The Government is consulting on proposals to amend the current rules and procedures for charging visitors and migrants for National Health Service care. These proposals include extending charges to primary care and identifying chargeable patients at the point that they first register with a general practitioner practice to allow the NHS to apply charges to them whenever they subsequently access hospital or other NHS services.

Views are also being sought on proposals to ensure temporary migrants from outside the European Economic Area make a financial contribution to the NHS, including the option of requiring those coming to stay for more than six months to pay a health levy to be collected by the Home Office alongside visa and immigration application fees.

Consultations published by the Department and the Home Office are examining the costs and benefits of these proposals to develop an impact assessment, whilst the Department has commissioned some independent professional research to better understand the extent of the use, and abuse, of the NHS by migrants and visitors, which will also inform the impact assessment.

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

To ask Her Majesty's Government what evidence they have about the impact of health tourism on the NHS budget. [HL1411]

Earl Howe: The Department is not able to make a reliable estimate of the impact on the National Health Service budget of providing NHS care to visitors and migrants who were not entitled to free treatment, including those known as health tourists, because the NHS does not currently have robust enough systems in place to identify every such patient.

The Department has commissioned some independent professional research to better understand the extent of the use, and abuse, of the NHS by migrants and visitors and is currently consulting on proposals to change the rules of entitlement to free NHS care and to ensure the system is better able to identify chargeable patients and recover costs.

NHS: Waiting Lists

Questions

Asked by ***Baroness McDonagh***

To ask Her Majesty's Government how many NHS patients were waiting for an elective procedure or operation at the end of (1) June 2010, (2) June 2011, (3) June 2012, and (4) June 2013. [HL1421]

To ask Her Majesty's Government how many NHS patients had been waiting more than 18 weeks for their procedure or operation at the end of (1) June 2010, (2) December 2010, (3) June 2011, (4) December 2011, (5) June 2012, (6) December 2012, and (7) June 2013. [HL1422]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): Information is not collected on how many patients are waiting for an elective procedure or operation. Information is collected on patients referred for non-emergency consultant-led treatment; these patients are on referral to treatment (RTT) pathways. Information is collected on how many patients on an RH pathway are still waiting to start treatment at the end of the month (incomplete pathways), and how many of these had been waiting for more than 18 weeks (incomplete pathways over 18 weeks). This includes patients who are waiting for an outpatient appointment, as well as those who are waiting for a procedure or operation. The available information is shown in the following table, which shows the number of patients on incomplete pathways and incomplete pathways over 18 weeks for the dates requested.

RH data for June 2013 will be published on 15 August 2013.

Table: RH: Patients waiting to start treatment at the end of the month.

	Total Incomplete Pathways	Number of Incomplete Pathways over 18 weeks
June 2010	2,569,098	221,588
December 2010	2,411,293	275,539
June 2011	2,550,720	226,427
December 2011	2,385,147	205,025
June 2012	2,635,475	154,449
December 2012	2,561,808	140,938

Source:
NHS England Referral to Treatment Waiting times monthly return www.england.nhs.uk/statistics/rtt-waiting times/

Nuclear Disarmament

Question

Asked by ***Baroness Miller of Chilthorne Domer***

To ask Her Majesty's Government whether Ambassador Jo Adamson, United Kingdom Permanent Representative to the Conference on Disarmament, will be attending meetings of the United Nations Open-Ended Working Group on Taking Forward Multilateral Nuclear Disarmament Negotiations. [HL1355]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi): The UK voted against the Resolution in the United Nations General Assembly (UNGA) First Committee that proposed the Open Ended Working Group (OEWG), has not attended past meetings of the OEWG, and does not intend to attend coming meetings.

The Government considers that the Conference on Disarmament, not the OEWG, provides the correct forum for taking forward multilateral nuclear disarmament negotiations.

The Government considers that a practical step by step approach is needed, using existing mechanisms such as the Non Proliferation Treaty and the Conference on Disarmament. The UK will continue to work with other nuclear weapons states (the P5) and non-nuclear weapons states to strengthen mutual confidence and further disarmament efforts.

Overseas Conflict: Sexual Violence

Question

Asked by ***Baroness Kinnock of Holyhead***

To ask Her Majesty's Government what is their response to United Nations Resolution 2016 (2013); and whether funding will be available to take it forward through the Preventing Sexual Violence Initiative and the proposed renewed National Action Plan for women's rights organisations at grass roots level in conflict-affected countries. [HL1381]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi): The UK played a key role in delivering resolution 2106, which was adopted during a debate hosted by the Secretary of State for Foreign and Commonwealth Affairs, my right hon. Friend the Member for Richmond (Yorks) (Mr Hague), under the UK Presidency of the Security Council, on 24 June 2013. The Resolution will strengthen delivery of the mandate of the Special Representative of the Secretary General for sexual violence in conflict, and provide a means for survivors' needs to be better addressed. The resolution recognises the G8 Declaration, adopted by G8 Foreign Ministers in April 2013, and builds on a number of its commitments. We will continue to support the UN in ensuring a more consistent approach to this issue across the various Council mechanisms. The next step will be to take the political campaign to a wider UN audience at the UN General Assembly and where the UK will seek more concerted global action.

On 11 April, at the launch of the G8 Declaration on Preventing Sexual Violence in Conflict, the Foreign Secretary announced £5 million (over three years) of Foreign and Commonwealth Office funding to support grassroots and human rights projects on sexual violence in conflict, and wider projects to tackle violence against women and girls. These work streams are being taken forward as part of the Foreign Secretary's Preventing Sexual Violence Initiative and are co-ordinated with the UK National Action Plan on UN Security Council Resolution 1325. The UK's three year National Action Plan is currently being reviewed and a revised plan is due to issue in March 2014. It will reflect wider women, peace and security work including the Preventing Sexual Violence Initiative and support resolution 2106.

Planning

Question

Asked by ***Baroness King of Bow***

To ask Her Majesty's Government what representations the Department of Communities and Local Government received from the London Borough of Tower Hamlets in response to its consultation on the areas exempted from the new office to residential change of use permitted development rights. [HL1374]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): The Government consulted on the relaxation of planning rules for change of use from commercial to residential in April 2011. In September 2012 we announced that we would introduce permitted development rights for change of use from offices to residential uses.

In January 2013 we invited applications from local planning authorities to request an exemption from the permitted development rights. The areas that have been exempt from the new permitted development rights, including those in the London Borough of Tower Hamlets, are available to view on the Government's website at:

https://www.gov.uk/government/publications/areas-exempt-from-office-to-residential-change-of-use-permitted-development-right-2013

Police: Prosecutions

Questions

Asked by ***Lord Ouseley***

To ask Her Majesty's Government how many police officers have been prosecuted in the past five years in cases involving criminal conduct against black and minority ethnic individuals. [HL1171]

To ask Her Majesty's Government how many police officers in the past 20 years have been prosecuted for conduct associated with deaths in custody; and what were the outcomes of those prosecutions. [HL1174]

The Minister of State, Ministry of Justice (Lord McNally): The Ministry of Justice Court Proceedings Database holds information on defendants proceeded against, found guilty and sentenced for criminal offences in England and Wales. This database holds information on offences provided by the statutes under which proceedings are brought but not the specific circumstances of each case. This centrally held information does not include details of the occupations of defendants. As such, it is not possible to identify where a prosecution is brought against a serving police officer.

Police: Whistle-blowers

Question

Asked by ***Lord Ouseley***

To ask Her Majesty's Government how they propose to improve the protection provided to whistle-blowers within the police service. [HL1453]

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach): The Independent Police Complaints Commission (IPCC) currently operates a Public Interest Disclosure Act (PIDA) telephone line and email address for the use of whistleblowers. Lord Justice Leveson in his report recommended that protection for whistleblowers should be enhanced, so the Government is working with both the IPCC and with the College of Policing to promote use of the PIDA line and build the confidence of those serving in police forces to raise concerns about individuals and practices.

Ports: Dredging

Questions

Asked by ***Baroness Smith of Basildon***

To ask Her Majesty's Government what research they have undertaken into the recent dredging of the Yauntlet Channel in the Thames Estuary to assess whether there could be any impact on the river environment around or close to the SS Richard Montgomery now or in the future which could destabilise the vessel and its cargo; and which Department or Executive Agency is responsible for requesting such research and ensuring that it was undertaken. [HL1454]

Earl Attlee: The navigation channels of the Thames Estuary and the Medway are in continual use by a wide variety of ships of every size including large container ships sailing in and out of existing port facilities on both the Thames and the Medway.

The port authorities have responsibility for the maintenance and necessary dredging of river channels in their area. Should there be a material change, in the channel or to alter the size and frequency of the shipping traffic in those channels, the port authority would carry out the appropriate assessments, including risk assessments, before carrying out dredging or other activity to maintain the channel or to allow additional shipping activity.

Asked by ***Baroness Smith of Basildon***

To ask Her Majesty's Government what research they have undertaken relating to the opening of the London Gateway port to assess any possible imminent or future impact on the river environment around or close to the SS Richard Montgomery which might destabilise the vessel and its cargo; and which Department or Executive Agency is responsible for requesting such research and for ensuring that it is undertaken. [HL1455]

Earl Attlee: The navigation channels of the Thames Estuary and the Medway are in continual use by a wide variety of ships of every size including large container ships sailing in and out of existing port facilities on both the Thames and the Medway.

The port authorities have responsibility for the maintenance and necessary dredging of river channels in their area. Should there be a material change, in the channel or to alter the size and frequency of the shipping traffic in those channels, the port authority would carry out the appropriate assessments, including risk assessments, before carrying out dredging or other activity to maintain the channel or to allow additional shipping activity.

Asked by ***Baroness Smith of Basildon***

To ask Her Majesty's Government what research they have undertaken relating to the use of Ultra Large Container Ships in the River Thames to assess any possible impact those vessels could have on the river environment around or close to the SS Richard Montgomery which might destabilise the vessel and its cargo; and which Department or Executive Agency is responsible for requesting such research and for ensuring that it is undertaken. [HL1456]

Earl Attlee: The navigation channels of the Thames Estuary and the Medway are in continual use by a wide variety of ships of every size including large container ships sailing in and out of existing port facilities on both the Thames and the Medway.

The port authorities have responsibility for the maintenance and necessary dredging of river channels in their area. Should there be a material change, in the channel or to alter the size and frequency of the shipping traffic in those channels, the port authority would carry out the appropriate assessments, including risk assessments, before carrying out dredging or other activity to maintain the channel or to allow additional shipping activity.

Asked by ***Baroness Smith of Basildon***

To ask Her Majesty's Government what research they have undertaken into the likely increase in the number and size of vessel movements on the River Thames and River Medway as a result of the London Gateway port in order to assess any possible impact on the river environment around or close to the SS Richard Montgomery which might destabilise the vessel and its cargo; and which Department or Executive Agency is responsible for requesting such research and for ensuring that it is undertaken. [HL1457]

Earl Attlee: The navigation channels of the Thames Estuary and the Medway are in continual use by a wide variety of ships of every size including large container ships sailing in and out of existing port facilities on both the Thames and the Medway.

The port authorities have responsibility for the maintenance and necessary dredging of river channels in their area. Should there be a material change, in the channel or to alter the size and frequency of the shipping traffic in those channels, the port authority would carry out the appropriate assessments, including risk assessments, before carrying out dredging or other activity to maintain the channel or to allow additional shipping activity.

Prisoners: Disabled Facilities

Question

Asked by ***Baroness Stern***

To ask Her Majesty's Government what plans they have to accommodate disabled prisoners currently in HMP Maidstone where they have access to ground floor cells and other adjusted facilities when that prison is converted to a prison for foreign national prisoners. [HL1155]

The Minister of State, Ministry of Justice (Lord McNally): All prisoners re-allocated from HM Prison Maidstone, as part of its change in function to a foreign national only prison, will be allocated to the appropriate prisons to meet their individual circumstances.

Staff at Maidstone have currently identified 21 prisoners from the remaining 183 who have particular requirements that need to be taken into consideration when making a decision about their transfer, following the change to the establishment's function. This includes elderly as well as disabled prisoners and the staff have been proactive in identifying prisoners who fall into this group. Where such a need has been identified the staff have worked to identify prisons that can provide the appropriate facilities.

NOMS is committed to providing a safe and decent environment for all prisoners including those with disabilities.

Railways: Arriva Trains Wales

Question

Asked by ***Lord Bradshaw***

To ask Her Majesty's Government whether the Welsh Government may negotiate a rolling stock procurement contract with Arriva Trains Wales. [HL1476]

Earl Attlee: The Welsh Government is responsible for funding and managing the Wales and the Borders franchise, operated by Arriva Trains Wales, and this is a matter for the Welsh Government.

Railways: High Speed 2

Question

Asked by ***Lord Berkeley***

To ask Her Majesty's Government whether HS2 has established a station choice panel; and, if so, who are the members. [HL1401]

Earl Attlee: The Government has not established a station choice panel for High Speed 2.

Syria

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government whether United Nations observers would be ready to monitor a ceasefire in Syria as soon as it came into effect. [HL1335]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi): The UK is continuing intensive diplomatic efforts to make progress on a political transition. The G8 was vital in re-affirming our commitment to the creation of a transitional governing body with full executive powers. We also achieved a significant step forward in agreeing the need for the UN to plan for Syria's transition, recovery and reconstruction. For any UN peacekeeping mission to be successful, it would need to be preceded by an enduring ceasefire that leads to a genuine process of political transition. We will continue to work closely with the UN to ensure the international community is ready to support a future Syrian authority rebuild stability and democracy.

Taxation: Crown Dependencies and Overseas Territories

Question

Asked by ***The Lord Bishop of Derby***

To ask Her Majesty's Government what work is being done to ensure that the United Kingdom overseas territories and Crown dependencies are committed to adopting any new standards of tax transparency agreed at the G8. [HL1294]

The Commercial Secretary to the Treasury (Lord Deighton): All of the UK's Crown Dependencies and Overseas Territories are committed to meeting the relevant standards in tax transparency. The Government works very closely with the Crown Dependencies and the Overseas Territories on an ongoing basis including as part of the G8 process over recent months. They have all agreed to automatically exchange information with the UK and others and, therefore, play an active role in the emerging new global standard for the automatic exchange of tax information. They have also committed to join the Multilateral Convention on Mutual Administrative Assistance in Tax Matters as rapidly as possible. The Crown Dependencies have all published Action Plans setting out concrete steps to

tackle misuse of companies and legal arrangements and all of the Overseas Territories have committed to do the same by the end of the year. The Government will continue to pursue greater transparency in taxation in all relevant international fora.

Wales and Scotland: Devolution

Question

Asked by ***Lord Empey***

To ask Her Majesty's Government, further to the Written Answer by Lord Deighton on 1 July (WA 194), whether they will now answer the question as to whether they have received any requests from the Scottish Government or Welsh Government for devolution of any fiscal powers, and, if so, which powers. [HL1346]

The Commercial Secretary to the Treasury (Lord Deighton): Further to my previous answer and, as was the case with previous Administrations, it is not the Government's practice to provide details of all such discussions and correspondence.

Young Offender Institutions: Child Protection

Question

Asked by ***Baroness Stern***

To ask Her Majesty's Government how many staff working in (1) young offender institutions, (2) secure training centres, and (3) secure children's homes, have been (a) suspended following a child protection allegation, (b) disciplined following a child protection allegation, (c) dismissed following a child protection allegation, and (d) convicted of sexual or violent offences against children, in the last five years. [HL1186]

The Minister of State, Ministry of Justice (Lord McNally): We are committed to ensuring the safety and welfare needs of young people in custody and that there are robust systems in place to address any issues arising from child protection allegations. Staff members who are found to have relevant convictions would no longer be allowed to work within the youth secure estate and appropriate action would be taken to remove them from that post.

It is not possible to provide information on how many staff working in young offender institutions, secure training centres, and secure children's homes, have been (a) suspended following a child protection allegation, (b) disciplined following a child protection allegation, (c) dismissed following a child protection allegation, and (d) convicted of sexual or violent offences against children, in the last five years because this information is not held centrally.

SCHs are operated by Local Authorities and follow their own disciplinary procedures. YJB are notified on a case by case basis of any issues but do not keep a central record.

STC providers do hold internal records of reasoning behind staff dismissals however the YJB do not have access to this.

NOMS HR Shared Service Centre provides improved centralised information in a number of areas, including the number of staff subject to disciplinary procedures. However it is not possible to filter the results to show the numbers of staff working in the young people's estate at the time of their disciplinary award, nor the number of disciplinary investigations specifically triggered by complaints from young people.

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