Friday
24 March 2017

Volume 623
No. 131

HOUSE OF COMMONS
OFFICIAL REPORT

PARLIAMENTARY DEBATES

(HANSARD)

Friday 24 March 2017

House of Commons

Friday 24 March 2017

The House met at half-past Nine o'clock

PRAYERS

[Mr Speaker *in the Chair*]

Mr David Nuttall (Bury North) (Con): I beg to move, That the House sit in private.

Question put forthwith (Standing Order No. 163), and negatived.

Local Audit (Public Access to Documents) Bill

Further consideration of Bill, not amended in Committee

Clause 1

Inspection of accounting records by journalists and citizen journalists

9.34 am

Mr Christopher Chope (Christchurch) (Con): I beg to move amendment 2, page 1, line 5, leave out from "after" to the end of the subsection and insert—

"any members of the public who are registered to vote in local elections in the United Kingdom".

This amendment would further extend the public access to local audit documents under section 26 of the Local Audit and Accountability Act 2014 in the interest of transparency and accountability.

Mr Speaker: With this it will be convenient to discuss the following:

Amendment 3, page 1, line 5, leave out from "insert" to end of subsection and insert "including any politician or journalist".

This amendment extends access to politicians as well as journalists so that they can access the information needed to fulfil their scrutiny function.

Amendment 4, page 1, line 5, leave out from "insert" to end of subsection and insert "including non-domestic ratepayer".

This amendment extends access to non-domestic ratepayers and clarifies the existing law.

Amendment 5, page 1, line 5, after "any" insert "accredited".

Amendment 6, page 1, line 5, after "any" insert "professional".

Amendment 7, page 1, line 5, after "any" insert "qualified".

Amendments 5, 6 and 7 would ensure that bloggers and citizen journalists would not have greater access than other members of the public.

Amendment 8, page 1, line 6, leave out subsection (3).

This amendment would remove the definition of journalist.

Amendment 1, page 1, line 8, at end insert—

"(1B) In subsection (1A) publication of journalistic material means the proposed inclusion in a newspaper or magazine whether paid for or distributed without payment and includes any article proposed to be published on any website on the internet whether it can be accessed without payment or upon payment of a subscription."

The purpose of this amendment is to make clear that the section covers all journalists who may wish to publish their articles in a newspaper or magazine or on the internet, irrespective of whether there are any charges for either.

Amendment 9, page 1, line 8, at end insert—

"( ) The relevant authority must ensure that any person interested in making an inspection within subsection (1) may do so at all reasonable times and without payment".

This amendment would extend to section 26 of the Local Audit and Accountability Act 2014 the same conditions as is set out in section 25 (3) of the Act.

Amendment 10, page 1, line 8, at end insert—

"( ) In subsection (1) after 'Act' in line 1 leave out 'other than an audit of accounts of a health service body'".

This amendment (which amends section 26 of the Local Audit and Accountability Act 2014) would enable "persons interested" to inspect the accounting records relating to the audit of accounts of a health service body.

Amendment 11, page 1, line 8, at end insert—

"( ) In subsection (1) after "At" in line 1 insert "and after".

This amendment (which amends section 26 of the Local Audit and Accountability Act 2014) would extend the period in which inspections can be carried out beyond 30 days.

Amendment 12, page 1, line 8, at end insert—

"( ) In subsection (4)(a) leave out "inspect or".

This amendment (which amends section 26 of the Local Audit and Accountability Act 2014) would remove the restriction on inspecting any part of any record or document on the grounds of commercial confidentiality but would retain the restriction on copying.

Amendment 13, page 1, line 8, at end insert—

"( ) Subsection 4 (a) after 'grounds of' insert 'current'".

This amendment (which amends section 26 of the Local Audit and Accountability Act 2014) would ensure that documents relating to past contracts could be inspected.

Amendment 14, page 1, line 8, at end insert—

"( ) Subsection (5) is hereby repealed."

This amendment (which amends section 26 of the Local Audit and Accountability Act 2014) would remove the definition in the Act of when information is protected on the grounds of commercial confidentiality.

Mr Chope: In moving amendment 2, we are mindful that this is a week in which there has been an attack on our parliamentary democracy, and we mourn Keith Palmer and the others who were the victims of that terrorist. This Bill and these amendments deal not with parliamentary democracy, but with local democracy, and their purpose is to strengthen further our local democracy in the United Kingdom.

I will also speak to amendments 3 and 4, which extend the range of individuals who are able to benefit from the powers under section 26 of the Local Audit and Accountability Act 2014—my hon. Friend the Member for Aldridge-Brownhills (Wendy Morton) is seeking to achieve that in her Bill. I shall also speak to amendments 5, 6, 7 and 9, which look in detail at what we mean by the expression "journalist" in clause 1. My hon. Friend

[Mr Christopher Chope]

the Member for Bury North (Mr Nuttall) has an amendment dealing with the definition of journalistic material, which I shall leave him to address.

Amendment 9 deals with the arrangements for exercising the right to inspect, and amendment 11 would extend the period within which such rights can be exercised beyond 30 days. Amendment 12 would enable documents, which are claimed to be commercially confidential, to be inspected but not copied. Amendment 13 would extend the right to inspect past contracts, and amendment 14 would leave the definition of commercial confidentiality unaltered in common law. Finally, amendment 10, which is arguably the most radical of these amendments, would extend the right of inspection beyond local government to the audit of accounts of any health service body as defined in the 2014 Act.

It will be obvious from that brief summary that all the amendments are faithful to the long title of the Bill, which is to extend public access to certain local audit documents under section 26 of the Local Audit and Accountability Act 2014.

My amendments are also inspired by recent experiences of how secrecy in local government is undermining the ability of members of the public properly to scrutinise what is happening and to hold councils to account. They also seek to address some of the issues raised on Second Reading on 25 November.

Mr David Nuttall (Bury North) (Con): My hon. Friend touches on the Second Reading debate, which is something that I hope to address in my remarks later today. Does he share my concern that the matters that were raised on Second Reading were not addressed when this Bill was in Committee?

Mr Chope: My hon. Friend is on to a good point. On Second Reading, quite a lot of references were made to the fact that we would discuss matters in Committee. I know that my hon. Friend the Member for North Dorset (Simon Hoare) said that if he was put on the Committee, he would like to raise this and that as an amendment, but he was never put on the Committee. If the records are correct, the Committee stage lasted for all of 21 minutes. I do not think that there could have been proper scrutiny of the Bill. None the less, there were some interesting remarks made in Committee, some of which I shall refer to shortly.

Wendy Morton (Aldridge-Brownhills) (Con): I just wish to make it clear that we had a debate in Committee. No Member was precluded from tabling an amendment, and we had a good turnout on the day. I will be responding to the hon. Gentleman's points in more detail when I have the chance to speak.

Mr Chope: I am told by my hon. Friend the Member for Bury North from a sedentary position that the Committee lasted only 11 minutes. I am sure that he will be able to explain further in due course.

Currently, a person who is registered as an elector in a local authority area has the right to inspect and have copies of a wider range of accounts and related documentation under section 25 of the 2014 Act and therefore has no additional benefits under section 26. Amendment 2 addresses the issue of electors in other local authority areas, who have no such rights unless they can show that they are "persons interested" under section 26. At no time, in my submission, has it been more important for electors in other local authority areas to be able to see what is going on elsewhere. Following the abolition of the Audit Commission, which provided easily accessible local authority data, it has become more difficult to make comparisons, despite the importance of comparative data for accountability and policy making.

Sir Edward Leigh (Gainsborough) (Con): I chair the Public Accounts Commission, and we have been looking at the accountability of local government. My hon. Friend makes a good point: the National Audit Office, which audits all central Government Departments—a massive task—is now effectively the auditor of local government. Although I favour the reform, my hon. Friend is right to raise the fact that there is undoubtedly much less detailed inspection of local government audit and finance as a result.

Mr Chope: My hon. Friend speaks with great knowledge and experience on this matter. The amendment is, in a sense, supported by my hon. Friend the Member for Calder Valley (Craig Whittaker). On Second Reading, he intervened on the Minister to ask,

"might not the Government—in the interests of honesty, openness and accountability—consider…opening things up completely, well beyond the intention of the Bill, so that anybody can access this information?"

The Minister, my hon. Friend the Member for Nuneaton (Mr Jones), said,

"I shall come on to that point a little later and explain why the balance is right."—[*Official Report*, 25 November 2016; Vol. 617, c. 1211.]

Unfortunately, apart from asserting that the measures in the Bill were proportionate, the Minister never got on to that important point. I hope that the Under-Secretary of State for Communities and Local Government, the hon. Member for Brigg and Goole (Andrew Percy), will be able to address that shortcoming.

I was somewhat perplexed by a comment made by my hon. Friend the Member for Brigg and Goole, who was the Minister in Committee on 7 February:

"I am reminded of Margaret Thatcher, who in her maiden speech introduced the Public Bodies (Admission to Meetings) Act 1960, which was in a similar vein; it was about opening up local government to journalists and other interested parties."—[*Official Report, Local Audit (Public Access to Documents) Public Bill Committee,* 7 February 2017; c. 4.]

With the greatest respect to my hon. Friend, I think that the core of Margaret Thatcher's Bill was ensuring that the public had access, which is what I seek to achieve with this amendment. We need more open, public access, just as the late Baroness Thatcher wanted the public to have access to local authority meetings. Her references to journalists in the 1960 Act were mostly about ensuring that accredited representatives of newspapers who attended such council meetings were provided with reasonable facilities for taking their report. I do not think it is fair to pray in aid our distinguished former Prime Minister as a supporter of the Bill, but not amendment 2. I suspect that the noble Baroness would have been a strong supporter of the amendment.

The amendment is highly relevant in the current climate, in which many councils seek to reorganise themselves into new structures—you know that as well as anybody does, Mr Speaker. At district council level, Buckinghamshire, Dorset, Lincolnshire, Oxfordshire and Kent are all toying with that idea, and I have no doubt that many others will do so. At present, it is difficult for a local taxpayer to get hard access to information about what is happening in another council, despite the fact that that local council may aspire to take over the assets and income of the council in which the taxpayer is resident.

I will illustrate that point with an example from Bournemouth. In speaking of Bournemouth, may I say how proud those of us who live near Bournemouth are of the way in which my hon. Friend the Member for Bournemouth East (Mr Ellwood) conducted himself on Wednesday? That was an example of public service at its best, and I fear that what I am about to say compares very unfavourably with his conduct.

9.45 am

On 9 February, Bournemouth and Poole councils made a submission to the Secretary of State to incorporate Christchurch Borough Council in a new unitary authority comprising Bournemouth, Poole and Christchurch. Although Christchurch is financially sound, the Bournemouth case is based on the need for greater efficiency and effectiveness, which the council says cannot be achieved in any other way.

However, Bournemouth has a local reputation for being profligate, spendthrift and secretive. A topical example is the decision, announced earlier this week, to make the council's chief executive redundant, which came completely out of the blue. The chief executive is to be made redundant and given a £394,000 pay-off, which comprises £85,000 as six months' pay, because apparently the council does not want him to work any longer; £63,000 in statutory redundancy pay, although no reason has been given why the post is no longer required; and £246,000 on account of early release of pension funds. I have no criticism of the chief executive, because I think he is on to a good thing. I am sure that if I were made a similar offer, I would be sorely tempted by it.

Bournemouth's proposal is currently before the Secretary of State, and it has been signed by the leaders of Bournemouth and five other Dorset councils. It envisages Christchurch taxpayers having to subsidise Bournemouth residents for up to 20 years by paying higher council tax than do Bournemouth and Poole residents. Effectively, they will have to meet the bill for the redundancy of Bournemouth's chief executive. Extraordinarily, the council did not meet to discuss whether it wanted to make the chief executive redundant. Not even the council's cabinet met to discuss the matter. No justification has been given for the substantial payoff, although I understand that there is to be a meeting of the council later next week, in which it will try to approve the decision retrospectively.

Fortunately, in our locality we have an excellent newspaper, the *Daily Echo*, which heard about the situation and told the world. It ran all sorts of headlines about the £390,000 payoff. As I indicated earlier, £390,000 is a slight underestimate, but the headlines get the message across. The paper discloses in, I think, today's edition that the council is going to discuss the matter, following the revelations in the newspaper earlier this week.

We are still left with the question of why the situation arose, and local accountability is crucial if we are to get to the bottom of that. It seems as though the chief executive has fallen out of favour with the leader of Bournemouth Borough Council because the chief executive questioned the council leader's conflicts of interest with his businesses. The council leader runs an organisation called Hospitality Solutions. This morning, I interrogated its website, which sets out all the things that the business does. In particular, it gives advice on town planning consultation for new build hotel and leisure development, planning support to maximise site potential, planning applications and reports, project planning and management, and building and refurbishment management. The website states that to arrange

"an initial discussion without any obligation"

on any of these issues, the person to contact is none other than John Beesley FIH, who is the leader of the council. On 23 January, the Bournemouth planning board gave approval for a £40 million hotel and apartment redevelopment on the site of the former Belvedere hotel to build a 131-room hotel with leisure facilities, a sky bar, 66 residential flats, a basement car park and so on. I understand that the developers of the site sought and obtained the advice of none other than the leader of the council when developing their ideas. The leader of the council—not wearing his hat as leader of the council, but wearing his hat as a planning consultant—gave them advice and encouraged them to make their pitch to the planning department, which knew of his involvement as a consultant, but was not, of course, influenced by the fact he was leader of the council.

What I suspect happened is that that, as well as various other things that have been going on, caused the chief executive to raise his eyebrow, that he was about to start an investigation into the leader of the council's conduct and conflicts of interest, and that the leader of the council has in effect used public money to ensure that the chief executive's best interests are served by taking the money and not inquiring any further into those issues.

That is a current example of what is happening across the country in local government. I do not know whether you read "Rotten Boroughs" in *Private Eye*, Mr Speaker, but there is so much information in it now that it almost needs to be a separate supplement. So much material is coming out but so little of it can get into the public domain, partly because of the pressure put on local newspapers. If they cause trouble with their local council, they may suffer discrimination because there will not be any advertising for local council jobs and they will not get access to information.

Mr Speaker: Order. The reference by the hon. Gentleman to the "Rotten Boroughs" column is, of itself, orderly, but it might help and inform the debate if that reference could be related more specifically to the terms of the important amendment to which he is speaking.

Mr Chope: I absolutely take that point, Mr Speaker.

Sir Edward Leigh: I want to speak directly to my hon. Friend's amendment in terms of understanding what other local authorities are doing. I see the Minister sitting in his place. We have had hugely controversial arguments in Lincolnshire about whether to have a mayor, and I and others managed to defeat that. There is now a proposal—it is only a rumour—that North Lincolnshire Council may want to take over or merge with West Lindsey, which I represent. As an elector of West Lindsey, I have absolutely no way of knowing what is going on in North Lincolnshire. I think that if that is being discussed in private, electors in West Lindsey, who have a crucial interest in that, should have a right to know what is going on.

Mr Chope: My hon. Friend makes a good point, and it is in essence what I have been saying about the position in Bournemouth. If Bournemouth is to take over or merge with Christchurch in a unitary authority, the people in Christchurch need to know the nature of Bournemouth Borough Council's debts and liabilities and how it conducts its proceedings, particularly in planning. One of the key losses in such a merger would be the loss of Christchurch Borough Council's control over its own greenbelt and planning policy. That is one of the biggest concerns that my local residents have. They fear that they will lose control over the quality of their local environment, which they currently control through local planning policy.

The amendment seeks to ensure that anybody can get access to such information, rather than just limiting it to journalists. Obviously, the information to which I referred earlier will become available only when the audit for this financial year is conducted, and that may be rather later in the day than most people would wish.

Philip Davies (Shipley) (Con): As my hon. Friend knows, many local papers are stretched financially and therefore deterred from publishing things—perhaps including things about the leader of Bournemouth council—because they fear being sued and do not have the resources to defend themselves. Does he agree that that is why it is so important that not just journalists but the public have access to such material, so that they can make up their own minds and are not dependent on newspapers being able to afford to risk publishing things that may cause them to end up in court?

Mr Chope: My hon. Friend is absolutely right. We in this place are trying to do the job of holding councils to account. I tabled a parliamentary question earlier this year to find out the level of non-domestic rate arrears in Bournemouth. I eventually got the answer that there were between £10 million and £12 million of uncollected non-domestic rates. To the council's credit, within weeks it had issued summonses against all those who owed arrears—I like to think I had some influence on that. We are talking about £10 million to £12 million of non-domestic rate arrears, at a time when we are saying that it is absolutely essential to save 1% of turnover by abolishing existing sovereign councils. It is farcical.

Trying to get councils to address these issues themselves is often very difficult. The idea of setting up scrutiny committees, which was part of the Localism Act 2011, has not really worked because those committees are often occupied by people who do not really understand, or are not interested in, genuinely holding the council to account. There is also the problem that scrutiny committees are not entitled to look into planning issues, which are often among the most controversial local issues.

There are lots of other things I could say about neighbouring councils, but I will not trouble the House with all that now. My hon. Friend the Member for Mid Dorset and North Poole (Michael Tomlinson) is here, and he may wish to add to that catalogue in due course if he contributes to the debate. The essence of the amendment is that everybody should be able to access such information. It should not be limited to journalists and other interested parties.

The idea is very much supported by my hon. Friend the Member for Calder Valley, who wanted to extend those rights to everybody. I anticipate the probable response of the Bill's sponsor, my hon. Friend the Member for Aldridge-Brownhills, to this point. On Second Reading, she resisted arguments to extend the rights by saying:

> "If the rights were extended to anyone and everyone, there would be great potential to make mischief through multiple requests to inspect or copy documents, without the accompanying ability to make a meaningful contribution towards raising awareness or improving the accountability of the body concerned."—[*Official Report*, 25 November 2016; Vol. 617, c. 1199.]

I implore my hon. Friend to reflect on what she said, because it is a sweeping generalisation and no evidence was adduced in support of it. Where is the evidence that the freedom to look at documents would be abused? Indeed, if it is abused, there are already safeguards to deal with vexatious behaviour. That, in summary, is the case for amendment 2.

10 am

Amendment 3 does not go as far as amendment 2, but it would extend to politicians the limited extension that the Bill gives to journalists to. The example I gave earlier is obviously relevant, but another concerns the difficulties that councillors in one area have in obtaining information about what has happened or is happening in other parts of the country. There is a very lively local debate about fair funding for schools, but it is very difficult to drill down into the data in other council areas to find out how well or badly the schools in one's own area compare with those elsewhere. There is a very good reason for saying that politicians should be able to have the same access as journalists.

Mr Nuttall: The whole Bill arises from the problem of defining terms. Has my hon. Friend given any thought to exactly what constitutes a "politician"? For example, does it include someone who is a candidate in an election, or only an elected politician?

Mr Chope: My hon. Friend has tried, probably very successfully, to torpedo my amendment. I accept the implied, or even indeed the express, criticism that he has articulated. However, I would fall back on the general common-law interpretation of "politician", which is probably the best way of dealing with that, without specifically having to define it in the amendment.

Amendment 4 would clarify the law by making it clear that "persons interested" also includes non-domestic ratepayers. I raise that issue because it was the focus of the court case of R. (on the application of HTV Ltd)

v. Bristol City Council, reported at EWHC 1219. Paragraph 48 of the judgment of Mr Justice Elias on 14 May 2004 said that he had

"reached the conclusion that the interest which the claimant has as a non-domestic ratepayer is sufficient to bring it within the concept of 'persons interested'."

In that case, Bristol City Council had argued to the contrary, citing in support the changes to non-domestic rate legislation in the Local Government Finance Act 1988. With forthcoming changes—the introduction of the 100% retention of business rates, and the pooling of business rates across local authorities—it is worth using this opportunity to clarify and put on the record that the existing legislation should expressly incorporate the rights of non-domestic ratepayers. That is the background to amendment 4.

Amendments 5 to 7 are alternative ways of limiting the term "journalist" in the Bill to real journalists. It is noteworthy that section 1(4)(c) of the 1960 Act provides that

"duly accredited representatives of newspapers attending for the purpose of reporting the proceedings for those newspapers shall…be afforded reasonable facilities".

The National Union of Journalists website sets out what is needed to establish that someone is an accredited journalist. An accredited journalist must have

"Employer Identification: Business card, employer I.D. badge, or letter of assignment on corporate letterhead. (Letterhead must identify media outlet name, address and phone)"

and

"Proof of Assignment: Sample by-lined article published within the past 6-months, or current masthead that includes the reporters name & title, or official letter of assignment from a media outlet."

Those are necessary, for example, for a person to be admitted to a press conference as an accredited journalist. It seems to me that if we are to extend such rights to journalists, we should encourage those journalists to be accredited, rather than amateur journalists.

Sir Edward Leigh: Why? We are moving into a completely different digital age in which people can set up blogs and Facebook pages. This is just inevitable, and my hon. Friend is slightly living in the past when he talks about the NUJ and journalists having to be accredited. He is just trying to put his finger in the dam, and it is not going to work. We need to have complete openness and complete transparency.

Mr Chope: That is the first time that anyone has suggested I am living in the past. To take my hon. Friend's point, if we are to give privileged access to journalists—our hon. Friend the Member for Aldridge-Brownhills is seeking to give journalists privileged access compared with other members of the public—those journalists need to be qualified in the sense that they understand the law, not just people who are prejudiced or not objective and who do not have the standards that we normally expect of journalists. My feeling is that if we are to give them special privileges, they should be duly accredited.

As I have said, I have expressed that point in alternative ways: we could also refer to them as professional journalists. As you may know, Mr Speaker, there is a society called the Society of Professional Journalists, which requires a professional journalist to adhere

"to a strict code of ethics so as to maintain and preserve public trust, confidence and reliability"—

I am sure my hon. Friend the Member for Gainsborough (Sir Edward Leigh) thinks it important that journalists should adhere to a strict code of ethics—

"To ensure this the process of 'gate keeping' is upheld within mainstream media. This relies on all experienced and trained journalists and editors to filter any nonfactual information from news reports before publication or broadcasting."

I do not want to go into the whole issue of fake news, but it is probably now more important than ever for us to ensure that there is some basis for the reports put forward by journalists, and how can that be policed unless by a body such as the National Union of Journalists or the Society of Professional Journalists?

Mr Speaker: Order. Ordinarily, I feel that I can follow and, to an extent, anticipate the hon. Gentleman, such is the frequency with which I have heard his speeches over three decades, but on this occasion my senses have deserted me. I had thought that he was going to tell us how many members the society has.

Mr Chope: Mr Speaker, I was not actually going to go into that level of detail.

Philip Davies: Why not?

Mr Chope: Because I am seeking to make quite a lot of points. I am sure that, however many members the society has, it will have even more members if the Bill is amended as I propose.

Philip Davies: My hon. Friend is beginning to lose me. It seems to me that he made a good case earlier for his amendment 2, which would provide access for as many people as possible—I am absolutely with him on that—but he now appears to be arguing for restricting the number of people who have access to such things, which flies in the face of his earlier amendment. Will he clarify whether he really supports his earlier amendment, rather than what may be seen as these probing amendments?

Mr Chope: Yes, I absolutely support my amendment 2. I tabled these alternative amendments 5 to 7 because in the event that my earlier amendment is not accepted by the Bill's promoter—

Philip Davies: That's very defeatist.

Mr Chope: Yes, it is indeed defeatist, and it is uncharacteristic of me to be defeatist about such things. In a sense, this is a case of belt and braces: if we are going to give privileged access to a group of people—my hon. Friend the Member for Aldridge-Brownhills wants it to be journalists—they should be accredited, professional or qualified journalists, rather than people who simply call themselves journalists.

Philip Davies: I hope that my hon. Friend will not be defeated on amendment 2—I encourage him to strive for it and I think that he will garner a lot of support—but surely if his first amendment fails, the second-best option is for as many people as possible, within the terms of "journalist", to have access to this information. Surely that is a better fall-back position than trying to restrict it even more?

Mr Chope: I understand my hon. Friend's point, but why should we, to maximise the number of people who have access, distort the meaning of "journalist" by saying that any member of the public can describe themselves as a journalist and thereby come within the terms of the Bill, rather than make it clear that we want to include all members of the public? But if we are talking about journalists, we owe it to them to try to maintain a standard for professional and accredited journalists.

Mr Nuttall: Has my hon. Friend noted the title of clause 1: "Inspection of accounting records by journalists and citizen journalists"? I hope, when I come on to my amendment, he will see that I have gone in exactly the opposite direction: rather than try to narrow the definition of journalist, I am trying to widen it.

Mr Chope: That is probably why I have not sought to address my hon. Friend's amendment. I am sorry that we cannot reach a consensus on this group of amendments, although there does seem to be a pretty strong consensus on the earlier amendments.

I draw the attention of the House to the fact that the NUJ has a code of conduct.

Alison Thewliss (Glasgow Central) (SNP): The hon. Gentleman makes an interesting point about professional qualifications and the accreditation of journalists and newspaper people. Does he agree that that would also apply to the editors of newspapers, including large publications that represent London?

Mr Chope: I would indeed—absolutely. Editors are included in the wider definition of "journalist". The hon. Lady makes a good point.

The NUJ code of conduct sets out 12 principles by which its journalists are expected to abide. I will not tell the House about them all, but, for example, one is to avoid plagiarism. Another is to resist threats or any other inducements to influence, distort or suppress information and not to produce any material likely to lead to hatred or discrimination on the grounds of a person's age, gender, race and so on. The most important of all is for journalists to do their utmost to correct harmful inaccuracies and to distinguish between fact and opinion—although that is not something we always find with journalists.

Mr Nuttall: Before my hon. Friend moves on, amendments 5, 6 and 7 have been tabled as alternatives—we cannot adopt all three. Will he let the House know which of the three alternatives he personally prefers?

Mr Chope: Of those three, I prefer amendment 5 on accreditation, because "accredited journalist" is a well-understood expression. As I said earlier, it is even referred to in statute, such as in the Public Bodies (Admission to Meetings) Act 1960.

Amendment 8 seeks to ensure that we do not define "journalist" in the Bill. The Office for National Statistics lists a series of roles defined as "journalist". These form the single occupational group of journalists and newspaper and periodical editors—including the editor of the London *Evening Standard*.

Amendment 9 would ensure that any person making an inspection under section 26(1) of the 2014 Act could do so at all reasonable times and without payment. If section 26 is to achieve the Government's purpose, we need to ensure that this provision is included, otherwise it would be too easy for the objectives of transparency and accountability to be frustrated. In Committee, the Under-Secretary of State for Communities and Local Government, my hon. Friend the Member for Brigg and Goole, said:

"In 2015-16, it would seem that local electors exercised their rights over a total of 11,000 bodies only around 65 times."—[*Official Report, Local Audit (Public Access to Documents) Public Bill Committee,* 7 April 2017; c. 5.]

They did so under section 25, but it would be ridiculous to suggest that extending the same rights to section 26 applicants would be unduly burdensome and too expensive.

10.15 am

Amendment 11 would extend the period in which inspections can be carried out beyond the current 30-day limit. The Minister told us on Second Reading:

"The ability to inspect and make copies of the most recent accounting information from a local authority during a specific period could provide compelling and timely evidence of poor spending decisions in the last accounting period".—[*Official Report*, 25 November 2016; Vol. 617, c. 1212.]

Hooray. Why then is the period within which this can be done limited to 30 days? As I said in the context of the available statistics on the take-up of those powers, the period seems to have little impact. But if, as the Minister hopes, there is an exponential increase in take-up following my amendments and this proposed legislation, would it not be desirable to spread the load over a longer period than 30 days, so there is not a great surge of activity over a specific 30-day period? I cannot understand why it should not be possible to access accounts beyond the 30-day period, once they are audited, produced and available, and that is the purpose of amendment 11.

Sir Edward Leigh: My hon. Friend speaks with authority and knowledge, so this intervention is a genuine request for information. We have the Freedom of Information Act 2000. I would like to hear from him—I suspect the House would like to hear it, too—how the ability of a member of the public to get information about local authorities relates to his or her freedom to get information about central Government.

Mr Chope: I do not hold myself up as an expert on the Freedom of Information Act, but local authorities are subject to it, just like any other public body. Freedom of information depends on being able to know what question to ask. Quite often, it is only when one looks at the accounts, or documents relating to the accounts, that we know what question to ask. Freedom of information powers can be more potent because they can be exercised at any time and the local authority is under an obligation to respond within, I think, 20 days or a reasonable period. They can be more potent, but the base information that enables people to understand what questions they really want to ask can probably be ascertained only by inspecting the documents.

Maggie Throup (Erewash) (Con): I am not an expert, but I would think that a freedom of information request is more costly to a council than what is proposed in the Bill. Perhaps a balance on cost-effectiveness needs to be taken into consideration, too.

Mr Chope: My hon. Friend may make a fair point. One problem is that some councils are really open and transparent. They receive very few freedom of information requests because they make information available. I will come on to an example where that has not been happening, and even councillors say, "Will I have to make a freedom of information request to get information from the chief executive of the council on which I serve?" That situation is intolerable. A lot depends on the culture of a council.

I was first elected to Wandsworth council in 1974—this is going back a long way—in the aftermath of a big corruption scandal. Immediately prior to 1974, the housing committee chairman of the Labour council had been sentenced to a term of imprisonment for receiving corrupt payments from someone called T. Dan Smith. After that, the culture in Wandsworth changed: everything was open. Tender documents were open, so everyone could see what was happening. It is a pity that that transparency is not the norm in so many councils throughout the country.

Amendment 12 would remove the restriction in section 26(4)(a) of the 2014 Act on the entitlement of a person

"to inspect…any part of any record or document containing information which is protected on the grounds of commercial confidentiality".

There is an interesting interaction between the freedom of information rules and the rules relating to a council's access to documents under the powers in the 2014 Act. The amendment does not go the whole way—it would not remove the restriction on copying—but it was inspired by a recent set of events in Christchurch. Local people wanted to get to the truth of an extraordinary episode.

You will remember, Mr Speaker, that we had an Adjournment debate about beach huts in Christchurch just before the summer recess. During that debate, I drew the House's attention to an extraordinary state of affairs. Christchurch borough council had entered into an agreement with an organisation called Plum Pictures to develop overnight residential beach huts as part of a competition organised by the Channel 4 programme "Amazing Spaces". It did not need to obtain planning permission. There was a big stink about it all, and—partly, I think, as a result of the Adjournment debate—the contract was aborted. The council's scrutiny committee then started an inquiry.

Despite the recommendations of the committee, which reported two or three weeks ago, the councillors have still not been shown a copy of the original contract, although it had been negated. The council is citing commercial confidentiality. I wrote to its chief executive on 3 August last year asking to see a copy of the competition and access agreement with Plum Pictures, but I have still not received a response. I had been waiting for the result of the scrutiny committee's inquiry, but the chief executive is apparently not obliged even to comply with its recommendations.

On Second Reading, my hon. Friend the Member for Eddisbury (Antoinette Sandbach) said:

"Clearly, the aim of the Bill is to throw the light of transparency on council proceedings where taxpayers' money is being spent. In that regard, it is vital that commercial confidentiality is not used as a tool to hide documents and that these proceedings become more open."—[*Official Report*, 25 November 2016; Vol. 617, c. 1203.]

I know that amendment 12 has the support of colleagues who participated in that debate.

Amendment 13 complements amendment 12 by enabling past as well as current contracts to be looked at. Amendment 14 would remove the definition of commercial confidentiality from the Bill so that it relied on existing common law. There is a mass of documentation about common-law commercial confidentiality, linked with the rules relating to freedom of information. In view of the time, I shall not go into the details now, but it seems to me that if we want the Bill to achieve its objective, there is no point in maintaining the ability of councils to impose a complete closedown by asserting that information is commercially confidential—which is all that has to happen.

The amendments would enable a member of the public to look at the document concerned, although not to copy it, and then to make his or her own assessment of whether it was commercially confidential, and whether it was in the public interest for it to be made more widely available. I think that the current tight drafting, and the restrictions on any material that is, or may be, commercially confidential, is a big weakness in the Bill.

I said at the beginning of my speech that I would keep the most radical amendment until the end. Amendment 10 would extend the right to inspect documents relating to the accounts of a health service body. I do not understand why, at a time when there is so much public concern about what is happening in various branches of the NHS—whether it be trust hospitals, clinical commissioning groups or other organisations—we are not allowing members of the public to have access to the relevant documents. We know, for example, that some NHS chief executives and other staff and administrators have received massive pay-offs. At the end of the day, the costs are not just borne by the national taxpayer but are taken out of local budgets, because they are allocated to clinical commissioning groups such as the one in Dorset.

I ask my hon. Friend the Member for Aldridge-Brownhills this question: why should not local people, including local journalists, be assisted by the Bill? On Second Reading, the Under-Secretary of State for Communities and Local Government, my hon. Friend the Member for Nuneaton, said:

"by giving journalists the right to access recent accounting information from a range of local public bodies, the Bill will assist them in ?their investigations". —[*Official Report*, 25 November 2016; Vol. 617, c. 1210-11.]

Sir Edward Leigh: My hon. Friend is on to a very good point. We are dealing with a powerful issue, and there is not really enough time for us to discuss it today, but let me explain what I want the Bill to do. Again, I am addressing the Minister, because I think that the Government must get a grip on this. I want a culture that enables all members of the public—not just members of the National Union of Journalists, not just cliques, not just councillors, not just Members of Parliament—to have access to the accounts of not only those who work in local government and health services but those who work in academies, where huge salaries are often paid. That is what should happen in a modern age.

Mr Chope: I hope that the Minister will be able to respond to what my hon. Friend has said. I know that health is not his direct responsibility, but I am sure that he will have been briefed by his colleagues, because he obviously had notice of the amendment.

[Mr Chope]

Surely this is an opportunity for the Government to demonstrate again to the public of the United Kingdom that they are on their side and will do everything in their power to ensure that there is proper scrutiny and accountability in relation to bodies that consume so much public resource. In my area, there continues to be a big conflict over a proposed merger between Poole hospital and the Royal Bournemouth. Eventually, during the last Parliament, I was able to persuade the Competition and Markets Authority that the merger should not be allowed to go ahead.

However, I have been told that covert discussions are taking place, and that the two hospitals are trying to persuade the authority to change its normal rule—that a merger cannot proceed within the next 10 years—in this particular instance. However, it is all happening under the radar: Joe Public does not know about it. That strikes me as another example of the sometimes cavalier way in which some of our local health organisations are operating.

10.30 am

Every Member who represents an English constituency has been discussing the long-term transformation plans in the health service, but I have to say that some of the basic information seems to be incredibly hard to get. I asked my local clinical commissioning group whether there would be fewer or more acute hospital beds if its proposals were implemented, and if so, how many acute hospital beds are there at present and how many would there be in the future. The chief officer did not know those basic data. He came back to me later with the data, and—surprise, surprise—the number of acute beds is going to be reduced by more than 10% despite the fact that the current occupancy rates in December and January were of the order of 95%, as against a national best practice figure of 85%. And so it goes on. Too much is being done in the name of the public, but without the public's being able to get down to the detail and find out who is benefiting and in whose interests some of these decisions are being taken.

As my hon. Friend the Member for Gainsborough says, this is the most radical and far-reaching amendment. Because it will not have been cleared across Government, I am sure that it will be not be acceptable to my hon. Friend the Minister, but I hope that when he responds to this group of amendments he will make encouraging noises, saying that really the Government are sympathetic to the case for bringing more of these public health bodies within the ambit of local scrutiny.

I did not want to speak for a whole hour, and I have not spoken for a whole hour, as I know that many other Members wish to participate in this important debate. I am grateful for the interest hon. Members have shown in the issues I have raised, and hope that in due course the promoter of the Bill, my hon. Friend the Member for Aldridge-Brownhills, will be willing to adopt some of these amendments—although obviously not all of them, I accept.

Mr Nuttall: May I start by paying tribute not only to the promoter of the Bill, my hon. Friend the Member for Aldridge-Brownhills (Wendy Morton), but also to my hon. Friend the Member for Christchurch (Mr Chope), because the whole House owes him a debt of gratitude for the forensic way in which he has analysed this Bill and brought such a wide array of amendments for the House to consider this morning? It seems to me that if this Bill had been subject to my hon. Friend's level of scrutiny in its earlier stages and been examined in the detail he has demonstrated this morning, perhaps we would not be in the position that we find ourselves in now.

I cannot make any prediction as to the length of time for which I will need to address the House, but I will deal succinctly with the amendments before us. I wish to advance to the House the reasons for my amendment and explain why it is important that it is accepted. I have adopted a slightly different approach from that of my hon. Friend the Member for Christchurch. He has adopted a more scatter-gun approach—that is a description, not a criticism—whereas I have concentrated my fire on just one amendment, and I will guide the House through why I think it is critical that it is accepted.

I want to pay tribute to my hon. Friend the Member for Aldridge-Brownhills. As the House will be aware, she has rightly already achieved a degree of expertise in private Member's Bills. In her first session in Parliament, she steered on to the statute book a private Member's Bill dealing with Great Ormond Street hospital, and everyone is grateful to her for that. She has also demonstrated her expertise in the way in which this Bill has been progressed so far: it was piloted through Second Reading in about 80 minutes and, as was mentioned earlier, it went through Committee in just 11 minutes. My hon. Friend no doubt felt very pleased about that, but I have to question the speed with which the Bill passed through Committee. I make no criticism of the Members who served on the Committee, but, as has been mentioned, no amendments whatsoever were tabled in Committee. It is also worth placing on the record that although my hon. Friend was obviously present in Committee, as was the Minister, my hon. Friend the Member for Brigg and Goole (Andrew Percy), and seven other hon. Members, there were several Members missing: the hon. Members for Clacton (Mr Carswell), for Swansea East (Carolyn Harris), for Oldham West and Royton (Jim McMahon), for Ealing North (Stephen Pound), for Stoke-on-Trent North (Ruth Smeeth) and for Liverpool, West Derby (Stephen Twigg) and my hon. Friend the Member for South Thanet (Craig Mackinlay). It is particularly noteworthy that my hon. Friend the Member for North Dorset (Simon Hoare), who had quite a lot to say about this Bill on Second Reading, missed the cut, as they say in golf, when it came to selecting the Committee members. Had he made the cut, some of the matters we will be touching on this morning might have been dealt with then.

I fear that the number and nature of the amendments before us today suggest that matters were somewhat glossed over in Committee. As evidence of that, I cite the transcript of the Second Reading debate on 25 November last year. That debate contained several references to things being ironed out in Committee. My hon. Friend the Member for Aldridge-Brownhills said:

> "I understand that hon. Members have raised concerns today, and they are exactly the kind of points that I would be more than happy for us to consider in Committee."

My hon. Friend the Member for North Dorset said:

> "There will be some issues to be teased out in Committee".

He then doubled up on that when referring to the question of what constitutes related documents. He said:

"I am absolutely certain that the issue will be teased out in Committee". —[*Official Report*, 25 November 2016; Vol. 617, c. 1200-03.]

Well, I am sorry to say that it was not.

The purpose of my amendment is to clarify the terminology used in this Bill, and to avoid any possibility of confusion in the future. I hope that, after I have spent a few minutes advancing the arguments for the importance of my amendment, it will be accepted, because I believe that its inclusion would strengthen the Bill. It is not what I would term a wrecking amendment, and I have tabled it in the best possible spirit. This is a short Bill, and my amendment to clause 1 simply seeks to put in the Bill what is inferred from the explanatory notes and the briefing papers, which I believe is the intention of the Bill.

The first three subsections of section 26 of the Local Audit and Accountability Act 2014 state:

(1) At each audit of accounts under this Act, other than an audit of accounts of a health service body, any persons interested may—

(a) inspect the accounting records for the financial year to which the audit relates and all books, deeds, contracts, bills, vouchers, receipts and other documents relating to those records, and

(b) make copies of all or any part of those records or documents.

(2) At the request of a local government elector for any area to which the accounts relate, the local auditor must give the elector, or any representative of the elector, an opportunity to question the auditor about the accounting records.

(3) The local auditor's reasonable costs of complying with subsection (2) are recoverable from the relevant authority to which the accounts relate.

That is the underlying provision in statute that my hon. Friend's Bill seeks to amend. It is important to bear it in mind, however, that that Act was itself a consolidating Act of a previous consolidating Act—namely, the Audit Commission Act 1998. It is important to remember that reference was made to a previous Act, as we shall see when we look at the leading case involved.

I want to talk now about the bodies that are covered by the 2014 Act. It covers a number of relevant authorities, which are set out in schedule 2 to the Act. For example, it covers county, district, borough and parish councils, combined authorities, police and crime commissioners, passenger transport executives and national parks authorities. At that time, it also covered the Greater London Authority. The bodies covered by the Act will inevitably produce a wide variety of stories that journalists might wish to pursue.

The leading case relating to this matter is that of R. (on the application of HTV Ltd) *v.* Bristol City Council. The House of Commons Library briefing on this Bill refers to that case, and the explanatory notes to the Bill mention the fact that it was this Bill that first identified the problem in the earlier legislation. We must bear it in mind that, although that case took place in 2004, it refers to the previous Act and not to the current Act that is being amended.

10.45 am

The case of R. (on the application of HTV Ltd) *v.* Bristol City Council was heard in the administrative court on 14 May 2004. It highlights the importance of being specific in legislation. I also believe that it highlights how there could be problems with my hon. Friend's Bill if it were to pass without my amendment. The claimant in the case was the television company, Harlech Television—HTV—which, as Members from Wales and the west of England will know as ITV Wales and West. HTV was in the process of making an edition of its weekly current affairs show, "Barely Serious", and the episode in question was about a landlord who provided accommodation and care services in the Bristol area.

The producer of the television company approached the local authority, Bristol City Council, to inspect the relevant records relating to the matter. Specifically, the producer wanted access to accounts that might shed light on the relationship between the council and the landlord, as there had been a number of complaints about his conduct. Initially, a reporter from the programme attended the council offices and was given access to some materials, but they described the material as being incomplete and indecipherable. The producer then wrote to the manager of corporate communications at Bristol City Council, setting out a list of documents to which she wanted access. After taking advice, the council refused access to the documents that HTV was seeking, on the ground that the TV company was not a "person interested" under section 15 of the Audit Commission Act 1998. This is the very situation that my hon. Friend's Bill seeks to clarify.

In the HTV case, the TV company applied for judicial review following Bristol City Council's decision not to grant access to the requested documents. HTV argued that anyone with a legitimate and genuine interest came within the scope of section 15 of the 1998 act. HTV contested the council's decision on two grounds, and it is the distinction between those two grounds identified in the case that has ultimately brought this Bill before us today. In particular, this is why I have tabled my amendment. First, HTV argued that as a local media organisation, it had a legitimate interest in the information in order to fulfil its role of ensuring the accountability of the authority to the public. Secondly, and as an alternative argument, HTV submitted that as a non-domestic ratepayer or business ratepayer, it had a financial interest in the accounts, sufficient to bring it within the scope of section 15.

Bristol City Council accepted that when non-domestic rates had been determined locally, the claimant would have been a "person interested" under the legislation. However, it argued that since the power to set non-domestic rates had been removed from local authorities, and since money raised by non-domestic rates was presently distributed from a central fund, the claimant was no longer a person concerned. The council also submitted that the information had to be sought for legitimate purposes concerning issues relating to the audit of the authority's accounts.

Mr Justice Elias found in favour of the claimant, HTV, but the grounds of the decision are very revealing. In his judgment, he determined that HTV was a "person interested" under section 15 of the 1998 Act, but that that was solely on the ground of being a non-domestic ratepayer. The judge found the defendant's argument that HTV did not contribute directly to the council budget through business rates to be purely artificial. He said:

"I think it is somewhat artificial to say that non-domestic ratepayers do not contribute to the local authority's budget. Although their contributions are channelled through, and will be

subject to, redistribution by central government—the income will be received indirectly by the authority as a grant from central government—nevertheless I think this gives them a sufficient interest in inspecting the accounts".

The key point in the judgment was that being a media company was not sufficient to bring the claimant into the scope of the Audit Commission Act 1998, and it succeeded only in the alternative argument. Mr Justice Elias said:

"Some of the ways the claimant puts its case cannot succeed. I reject the contention that it has a sufficient interest merely by virtue of being a media organisation. It seems to me that the use to which persons wish to put the information cannot of itself make them interested persons."

He also concluded that if a right to inspect documents existed at all, the motives for seeking to use that right, and for seeking access to the documents, was not relevant. Referring to that case and some of the detail of it explains and sets out clearly why it is so important that measures in this Bill are clarified.

Let us continue with the example of a television company wanting access to local authority documents for the purposes of a documentary. The HTV case demonstrates that another company or journalist who operates or lives outside the area would have no access simply by virtue of being a journalist and that neither would have access as a domestic ratepayer as they would ultimately contribute to a different local authority. Thirteen years after the HTV judgment, we can see why a simple legislative change is now so important. As I said, I do not seek to wreck the Bill, but it is important to set out why my amendment should be made today.

My amendment 1 clarifies the definition of a journalist, which is currently set out in clause 1(3) and its new subsection (1A), which states:

"In subsection (1) 'journalist' means any person who produces for publication journalistic material (whether paid to do so or otherwise)."

The problem is that it is unclear exactly what constitutes a journalist. As I mentioned in an earlier intervention, clause 1's title is:

"Inspection of accounting records by journalists and citizen journalists".

Although new subsection (1A) attempts to define "journalist", there is no reference in the Bill whatsoever to "citizen journalist". It was for that reason that I sought to table amendment 1, which seeks to insert at the end of clause 1, page 1, line 8 a proposed new subsection (1B) containing the following words:

"In subsection (1A) publication of journalistic material means the proposed inclusion in a newspaper or magazine whether paid for or distributed without payment and includes any article proposed to be published on any website on the internet whether it can be accessed without payment or upon payment of a subscription."

Members will have seen the explanatory statement that I provided to give a flavour of why I tabled the amendment. It states:

"The purpose of this amendment is to make clear that the section covers all journalists who may wish to publish their articles in a newspaper or magazine or on the internet, irrespective of whether there are any charges for either."

I suspect that there is not much controversy over the definition of a journalist. Although, as we heard from my hon. Friend the Member for Christchurch, the exact definition of a journalist can be open to some dispute, and I will come on to that when I deal with his amendments. As far as my amendment is concerned, the real difficulty is with the definition of what amounts to a "citizen journalist". Rather than try to make the wording even more clumsy and complicated by trying to define the term "citizen journalist", I have simply expanded on the word "journalist" to make it clear that if somebody wants to publish their work on the internet, that should be covered by the Bill.

Mr Chope *rose—*

Philip Davies *rose—*

Mr Nuttall: Ah, a dilemma. I will give way first to my hon. Friend the Member for Christchurch.

Mr Chope: My hon. Friend is making a fascinating contribution. Although "citizen journalist" is referred to in the rubric of clause 1, there is no definition of it; there is only a definition of "journalist". Does he agree that that rather suggests that there was originally other material in clause 1 that was cut out as a result of negotiations between our hon. Friend the Member for Aldridge-Brownhills and the Department, and that the Department failed to observe that there was no longer any definition of "citizen journalist" and amend the Bill accordingly?

Mr Nuttall: There may be some reason for why there is no definition of "citizen journalist" in the Bill, but I must admit that I am unaware of what that reason might be. What I can say, before I give way to my hon. Friend the Member for Shipley (Philip Davies), is that the Bill's explanatory notes state in paragraph 4:

"Accordingly, we are seeking to extend the definition of 'any persons interested' in section 26(1) of the Act"—

the Local Audit and Accountability Act 2014—

"to include journalists, including 'citizen journalists'".

Crucially, paragraph 4 goes on to state that "citizen journalists" means

"bloggers and others who scrutinise local authorities but who may not be accredited members of the press to enable them to access a wider range of accounting material in order to report and publish their findings so that it is available to local electors in an area, thus providing them with information that will enable them to better hold their local council to account."

Who can disagree with that? It seems an entirely laudable aim, and it is rather disappointing that that laudable aim was not carried through on to the face of the Bill. That is what my amendment seeks to do.

Philip Davies: Where do social media fit into my hon. Friend's wide definition of the term "journalist," particularly with regard to Facebook and Twitter? If he is basically saying that the term covers anyone who wants to publish anything on the internet, it seems to me that anybody, anywhere can publish on Twitter or Facebook, or whatever. Will that fall within his definition? Does his definition of journalism cover any member of the public? That brings us back to amendment 2, moved by my hon. Friend the Member for Christchurch (Mr Chope).

11 am

Mr Nuttall: I am grateful to my hon. Friend for his intervention because he touches on what I will cover in my remaining remarks on amendment 1. There is a distinction to be drawn, because although I agree that my wide definition would, on the face of it, give a very

large number of people the right to go and inspect the accounts, the definition does require some publication on the internet. If somebody wanted to go for their own private interest, perhaps for academic research, they would not be included without there being such a publication. There would have to be some element of publication on the internet, and I make no apology at all for my definition covering a wide category of people, because I want to make it as wide as possible.

Philip Davies: Just to clarify, as I am still not entirely clear, does that mean that publication on social media such as Twitter would fall within my hon. Friend's definition of journalism?

Mr Nuttall: In short, yes—I am absolutely clear about that—because my definition refers to publication on a website. If a person publishes something on their Twitter account, it is possible to look them up using the web address and to scroll back through their tweets to see what they said yesterday, a month ago or a year ago. It is published for all time on the internet.

Philip Davies: I am not unsympathetic to my hon. Friend's point. The only issue I would raise, and it may be an added complication, is that many Twitter profiles, as we all know too well, are anonymous. We would have no idea who is behind such publications. Is there any implication in amendment 1 that, in defining "journalist", the public should have the right to know who is publishing the particular material?

Mr Nuttall: My hon. Friend raises a good point that I had not previously considered. On the one hand, I agree with him that it is important that individuals should know who is putting such information out there. On the other hand, if it is an anonymous Twitter account, or if the user's identity has been protected for some reason, I would be inclined to trust the public to treat any published information with a high degree of caution because they would not be able to know its source. Although I would defend the right of anyone to publish such information —this comes back to the question of fake news raised by my hon. Friend the Member for Christchurch—the problem with such accounts is that, because they are not accredited to any recognised journalistic outlet, members of the public should be cautious about what they read on them. That does not detract from my fundamental point that the mere fact of information being published on what we refer to with the shorthand "social media" should not stop it being regarded as having been published.

In the past, things were published in a daily newspaper and that was it. There is the old saying about today's newspaper being tomorrow's fish and chip paper, and I am old enough to remember when that was true.

Sir Greg Knight (East Yorkshire) (Con): Does my hon. Friend accept that even in newspapers some items are anonymous? For many years there was a column in the *Daily Express* called "William Hickey," but there was no such person.

Mr Nuttall: I am grateful to my right hon. Friend for his comment, which supports my answer to my hon. Friend the Member for Shipley. The mere fact of anonymity should not preclude publication, but it should then be up to the individual reader to decide what weight to give the information or news item in a column. Of course, the law would apply equally to printed material under the 2014 Act.

In answer to my hon. Friend, things can be published anonymously in a newspaper, not just on the internet. We often see letters in newspapers saying "name and address withheld." Information can be put into the public domain without any indication of who has put it there.

Amendment 1 would broaden the scope of what is termed "journalistic material" to ensure that news websites in all media formats are included. The world of journalism is changing and evolving, and it is important in a free society that different viewpoints can be freely expressed and that journalists have the freedom to go about their work.

The public affairs and software company Vuelio listed the top 10 political blogs in the UK as of June 2016, and in first place was Guido Fawkes. It was followed by political websites of all persuasions, including Wings Over Scotland, which I cite for the benefit of our friends from Scotland—the hon. Member for Glasgow Central (Alison Thewliss) has left her place. The list also included LabourList, Left Foot Forward, Political Scrapbook, Political Betting, ConservativeHome, Slugger O'Toole, Liberal Democrat Voice and Labour Uncut. All aspects of the political spectrum are covered by political blogs.

The number of viewers watching a programme, the number of readers of a newspaper and the number of visitors to a website should not, of itself, be the criterion by which we determine whether something is valuable. My hon. Friend the Member for Christchurch made the interesting comment that if something is published on a website that only has a readership within the area of Christchurch and Bournemouth, that would be sufficient to meet the definition of publication. It does not have to be a national publication because, by definition, we are talking about local bodies and local councils. It seems more important to consider the quality of the readership, rather than its number or location. It might be more relevant to communicate something to 100 people in the locality than to 10,000 people who live somewhere else in the country, so we cannot purely look at the numbers when deciding this.

We need to bear in mind not only written publication and communication by social media and on the internet, but the fact that we are moving into an age of video bloggers—vloggers. I have therefore tried not to be too prescriptive about what constitutes a news outlet and my amendment simply specifies "on any website". With modern technology, it is easy for anyone to produce their own reports and put them on the internet for others to view. Last year, research by the Reuters Institute for the Study of Journalism suggested that 51% of people with online access use social media as a news source. That is a fairly high proportion, but 28% of 18 to 24-years-olds—the younger generation, whom we want to get involved in the political process—cited social media as their main news source; nowadays this is where people get their news. More of that age group cited social media as their main news source than cited television—its figure was only 24%. It is important that this legislation reflects that changing landscape in journalism. We have to accept that in an evolving social

[Mr Nuttall]

media world the definition of "a journalist" will inevitably change over time. My amendment seeks to future-proof the Bill, which is why it stresses the words

"any website on the internet".

Sir Greg Knight: I am a little concerned about my hon. Friend's amendment, because I think it is restrictive. In terms of hard-copy publications, it refers only to "a newspaper or magazine". Would it therefore not exclude a parliamentary candidate who was seeking to root out local corruption and wanted to publish in an election leaflet?

Mr Nuttall: I am grateful to my right hon. Friend for that intervention, and I fear my definition might exclude that, which may be why my hon. Friend the Member for Christchurch tabled an amendment to include "politician" in the definition. I would hope that any would-be politician—any election candidate nowadays—would have access to social media and their own website and so would be able to use the fact that they were going to publish on that website as reason to inspect the documents.

Let me try to pre-empt some further criticisms that may be made of my amendment that relate to the definitions of "internet" and "website". The definition of "internet" is:

"A global computer network providing a variety of information and communication facilities, consisting of interconnected networks using standardized communication protocols."

Alternatively, the "net", as the internet is often referred to, is defined as

"a worldwide system of computer networks—a network of networks in which users at any one computer can, if they have permission, get information from any other computer".

11.15 am

A website is defined as

"a set of pages of information on the internet about a particular subject".

I challenge people to ask themselves: if a member of the public was reading my amendment, would it be clear what was intended? I submit that it is perfectly clear that the intention is to expand the definition of "journalist" and to go some way towards what the Bill's sponsors claim they are doing with their provision. There is no ambiguity here.

Mr Chope: My hon. Friend says that there is no ambiguity, but clause 1's title refers to "citizen journalists", yet the clause contents refer only to "journalists", not to "citizen journalists". That creates confusion, does it not? Why are we not just talking about journalists and then defining "journalists" in subsection (3)?

Mr Nuttall: To be fair, my amendment does not refer to "citizen journalists"—only the clause title does, although the term is used in the notes and the briefings. With hindsight, I think this should be deleted from the clause title, because it leads people down a cul-de-sac, as they will think a bit is missing from the Bill and will wonder where the definition of "citizen journalists" is. As I said, I decided that rather than trying to define that, it would be better to extend the existing definition of "a journalist". Perhaps it would have been better to define—somehow—what a "citizen journalist" is, but I was conscious that a number of colleagues objected on Second Reading to the reference to "citizen", because we are all subjects of Her Majesty. For that reason, I felt it was not sensible to incorporate the term "citizen journalists" in legislation, and I would prefer it if those words were struck from the Bill.

My amendment deals with whether payment being made for a newspaper or magazine, or for access to a website, should affect the situation. I have made it clear that that should have no bearing on whether someone, whether or not a citizen journalist, should have the right to access the accounts of their local council or other body covered by this legislation. The Bill makes it clear that it matters not whether the journalist is paid or unpaid, but I thought it was equally important to clarify this issue about payment to access the site.

Sir Greg Knight: The more I reflect on my hon. Friend's amendment, the more unsatisfactory I think it is. Why is he apparently discriminating against television journalists? Many journalists, such as Michael Crick, might want to prepare a news piece for broadcast in a television programme, not for release in a magazine or newspaper, or on the internet. Why are television journalists excluded from his amendment?

Mr Nuttall: I do not intend to exclude anybody. Nowadays, all the broadcasters have websites. They would not necessarily need to publish or broadcast online, but I am not aware of any broadcasters that do not have websites. Perhaps my right hon. Friend is aware of some, but I would have thought it very simple for any broadcaster, faced with a council using the argument advanced by my right hon. Friend as a shield, to say, "In any event, we will be publishing it on our website."

Philip Davies: To reinforce my hon. Friend's point, all TV channels can be accessed via the internet these days, so really they all publish on the internet as well. If I read his amendment correctly, it talks about what is included; it does not necessarily refer to excluding other things. It is really an enabling amendment, which I hope will give some comfort to my right hon. Friend the Member for East Yorkshire (Sir Greg Knight).

Mr Nuttall: I am grateful to my hon. Friend for that intervention, because it is important to note that the amendment says "and includes"; I have tried not to exclude any other options but merely to clarify. I hope that that will be noted by the Bill's promoter and the Minister, who I fear may have some reservations about my amendment. I hope they will concentrate and reflect on that intervention from my hon. Friend.

I wish to comment briefly on several other amendments, but I am understandably concerned that I advance the best possible case for my own. I hope I have been able to satisfy all those with concerns about my amendment and that I have set their minds at ease. I note that the Bill's promoter has not sought to contest my amendment in any way during my remarks. I sincerely hope that, when she speaks, she will indicate her willingness to accept it in the spirit in which it was tabled. It is not a wrecking amendment; it merely seeks to achieve what

her explanatory notes to the Bill say and extend the cover to citizen journalists and bloggers to enable them to inspect the accounts of local authorities.

I wish now to deal with the amendments tabled by my hon. Friend the Member for Christchurch and make it clear which of them I do and do not support. His amendment 2, as on the amendment paper, would essentially mean that virtually anyone would be able to make use of the powers in the Bill. I am happy to support that, although it is perhaps a touch ambitious, given the views expressed so far during the Bill's progress by its promoter and the Minister.

My hon. Friend has suggested several other options for the House to consider, including, in amendment 3, extending the access to include politicians. As I made clear in my intervention earlier, I have some concerns about the fact that the word "politician" is not defined anywhere in the Bill, but I have no objection at all to the general proposition of extending the scope from journalists to politicians.

Amendment 4 deals with the position of non-domestic ratepayers, which is particularly important as we move into an era in which we are going back towards the localisation of business rates. That move will inevitably lead businesses within an area to take more interest in what is going on in their local authority, so I wholeheartedly support the amendment.

Amendments 5, 6 and 7 give the House the opportunity to choose between the Bill applying to journalists who are accredited, professional or qualified. We heard from my hon. Friend earlier that his preferred option would be for it to apply to accredited journalists, as per amendment 5. I am happy to go along with my hon. Friend for the reasons he set out.

Amendment 8 would remove the definition of a journalist entirely. As that would, of course, be in direct contravention of my amendment, I would oppose it and press my own instead.

Sir Greg Knight: My hon. Friend is galloping on at such a speed that he rather skipped over amendment 3. Does he share my concern that it might be defective because it refers to a politician, the definition of which is someone who is professionally involved in politics, especially someone who holds an elected office? That might rule out an aspiring politician who is a candidate but is yet to be elected.

Mr Nuttall: I am grateful to my right hon. Friend for that intervention. He might have missed my intervention, but I made that point earlier in the debate. I entirely agree that there is a difficulty with not defining the term "politician" to make it clear that someone who aspires to elected office should be included, because they are as likely as anyone to want to carry out investigative work, study the accounts to get to the bottom of them, and see whether there is anything in there that they need to bring to the public's attention.

Amendment 9 is as on the amendment paper. It would extend to section 26 of the 2014 Act the same conditions set out in section 25(3) of that Act. My hon. Friend the Member for Christchurch has again struck on something that is worthy of the House's consideration. I am not sure whether he wishes to press the amendment to a vote but, should he so wish, I would certainly consider supporting it.

11.30 am

My hon. Friend's most controversial amendment is amendment 10, which would deal with the inclusion of health service bodies by removing the words

"other than an audit of accounts of a health service body"

from clause 1. It is worth noting that the House of Commons briefing on the Bill refers to the fact that the bodies covered by the 2014 Act include clinical commissioning groups within the NHS. Of course, they are only one small part of the NHS. Like him, I see no reason why the Bill should not be amended to make it clear that the plethora of different health service bodies are covered.

Mr Chope: To reinforce that point on clinical commissioning groups, CCGs have a veto over the use of procedures for people living within their areas. Those vetoes are often controversial and are justified on the basis of cost. If people cannot examine the cost bases of decisions, it is difficult to hold CCGs to account.

Mr Nuttall: I entirely agree with my hon. Friend. There would be considerable interest from local residents in accessing all the accounts of all health service bodies.

My hon. Friend's amendment 11 would extend the period in which inspections can be carried out beyond 30 days. I have heard no explanation as to why the period is 30 days and not 60, 25 or another number. I entirely agree that no logical reason has been advanced as to why we should have a 30-day limit. I would support him on the amendment.

Amendments 12, 13 and 14 are more technical amendments dealing with commercial confidentiality. I welcome amendment 13 and recommend it to the House. The fact that something was commercially sensitive in the past should not prevent the accounts and associated paperwork from being inspected now.

Those are my views on my hon. Friend's amendments, but I reiterate that I commend my amendment 1 to the House. I hope this is not the case, but if the amendment is opposed, that will draw into question everything said about the Bill's extending access to a wider number of people and giving information to the public. I have sought only to put in the Bill what the explanatory notes say the Bill is about.

At the very least, if for whatever reason my amendment does not find favour with the promoter of the Bill, I would first be interested to know why. Secondly, the public would be suspicious of the Bill. Let us not forget that the Bill was brought before the House because the initial Acts were defective. I advise the House to be wary of any arguments advanced by the Government against my amendment, because Governments of various hues down the years have led us to the position we are in this morning. I have attempted to be clear and open. One can argue over individual words, but I submit to the House that my amendment is perfectly clear. It seeks to give clarity to the phrase "citizen journalist", which, whether we like it or not, appears in the heading of clause 1. I commend my amendment to the House.

Philip Davies: I am grateful to my hon. Friends the Members for Christchurch (Mr Chope) and for Bury North (Mr Nuttall), who have given a compelling and comprehensive account of their amendments. I rise to

[Philip Davies]

adjudicate between them. It is a rare occurrence when my two hon. Friends come at things from slightly different perspectives, but I sense that they have their differences on the Bill. I will do my best to be fair to their amendments in my adjudication.

I join my hon. Friend the Member for Bury North in congratulating the Bill's promoter, my hon. Friend the Member for Aldridge-Brownhills (Wendy Morton), on getting her Bill to this stage. It is a good Bill, but if it were to incorporate some of the points made by my hon. Friends the Members for Christchurch and for Bury North, it would be a better Bill. The whole purpose of the Report stage is to try to improve a Bill. My hon. Friend the Member for Brigg and Goole (Andrew Percy) is an excellent Minister, and I hope that he and my hon. Friend the Member for Aldridge-Brownhills have listened carefully to my hon. Friends, and that they appreciate, on reflection, that the Bill could be better. I will try to set out which of the amendments the Minister and my hon. Friend should be minded to accept. If they are minded not to accept them, I encourage my hon. Friends the Members for Christchurch and for Bury North to consider pressing them to a Division to test the will of the House.

My hon. Friends have made compelling cases for some but not all of their amendments, which is where I will focus my attention. Amendment 2 is the lead amendment in the group—rightly so, in many respects. It is my contention that it is the most powerful amendment in the group and if my hon. Friend the Member for Christchurch is tempted to press any of his amendments to a Division, I hope he focuses his attention on amendment 2, which states:

"Clause 1, page 1, line 5, leave out from 'after' to the end of the subsection and insert 'any members of the public who are registered to vote in local elections in the United Kingdom'".

In simple terms, my hon. Friend is basically saying that everybody in the country should have a right to know what is going on in local authorities. His compelling case was based on what is happening in his local authority and the neighbouring authority in Bournemouth. Clearly—it seems obvious to me—if two local authorities are potentially merging, a member of the public in one should have the absolute right to full access to all the information from the other to assess whether it is in their best interests for the merger to go ahead. Without access to the information, how on earth can they be in a position to make that judgment? That completely flies in the face of democracy.

It would be perverse in many respects if, in respect of my hon. Friend's local authority area, the editor of the *Evening Standard*, who was mentioned earlier, was able to access the documents relating to his neighbouring council by virtue of being a journalist—a fine and leading one, at that, as the editor of a prestigious newspaper—but my hon. Friend's local residents were unable to get the same information. That would surely be a perverse outcome, and it cannot really be the one envisaged when the Bill was in its infancy. I do not see what possible argument there could be against his amendment. If we believe that, in extending transparency, local authorities can rightly be held to account and the public can have greater awareness of what is going on, why do we not give them all the opportunity to see the information for themselves rather than relying on journalists to do the job for them?

I agree with the principle of extending the range of people who have access to these documents. However, the problem is that this proposal, while a step in the right direction, is not sufficient because, as we all know, the newspaper industry, and local newspapers in particular, are going through a pretty torrid time financially at the moment—I do not think there is any secret about that. With things moving on to the internet, newspapers find it very difficult to adjust and to monetise their content. We therefore tend to find in many local areas that, unfortunately, despite the best efforts of local newspaper groups, they are not increasing the number of journalists who would get access to all these documents and go through them with a fine-tooth comb; they are actually shedding journalists, and they are being spread more thinly. It is slightly naive to hope that, on the back of having given local journalists access to this information, all this stuff will suddenly be in the public domain, because I am not entirely sure that the journalistic trade has the capacity to do that. We will therefore be enabling something that is very worth while but which may not happen in practice. If we want this information to be in the public domain so that the public are able to hold local authorities to account, we cannot just rely on journalists because it is difficult to see how they will have the capacity. We have to allow the public to do it themselves.

I do not see why anybody should not be able to have access to this information. In practice, the chances of somebody in Shipley gratuitously showing an interest in the local authority in Christchurch are very remote. Nobody is going to be inundated with requests for that kind of scrutiny, but residents in Christchurch may well want to know what is happening in Bournemouth, which is just down the road, and they should absolutely have the right to inspect and see whether the council is behaving in the way it should. I was rather shocked to hear the allegations made by my hon. Friend the Member for Christchurch about the conflicts of interest of the leader of Bournemouth Council. Without going over the detail myself, it certainly did not sound very good. It is absolutely right that local residents in adjoining authorities should be able to know what is going on.

I genuinely do not see why my hon. Friend the Member for Aldridge-Brownhills or the Minister would want to resist this greater transparency and scrutiny, because surely that is the whole purpose of the Bill. In his amendment, my hon. Friend the Member for Christchurch is, in effect, taking the Bill to its logical conclusion. I am pretty sure that if we do not do this now, there will be another private Member's Bill further down the road introducing the measures that he proposes, because there is a clear logic to what he is trying to achieve. I believe in transparency, and I think it is very difficult to argue against it. If we are to go down the route of transparency, let us have full transparency so that nobody can claim that they did not have an opportunity to access any detailed information that they wanted to see.

Mr Chope: My hon. Friend mentioned the shortage of local reporters and the pressures on local newspapers. Does he recall that only last month the BBC said that it

was setting aside £8 million a year to pay for 150 reporters to work for local news organisations across the country? Is not that stark evidence of the plight of many of our local newspapers?

11.45 am

Philip Davies: My hon. Friend is absolutely right. I do not want to get too side-tracked, Madam Deputy Speaker, and you would not allow me to, but it is fair to say that the BBC does not help in these matters because it pinches local content and shoves it on its website free of charge, making it difficult for local papers to monetise their work. I welcome what the BBC said, but I do not know whether it will work in practice in the way that is envisaged, because what I see, Madam Deputy Speaker—I do not know what is happening in Derbyshire or in other parts of the country—is local papers still shedding staff rather than recruiting staff. I have not noticed any difference in that regard since the announcement was made. We will have to see what happens. However, as my hon. Friend says, we cannot rely on local newspapers being able to fill this void. I think he is on to something with amendment 2, which is the strongest of the group.

Amendment 3, also tabled by my hon. Friend the Member for Christchurch, mentions

"including any politician or journalist".

I got the sense that my hon. Friend felt that, between them, my right hon. Friend the Member for East Yorkshire (Sir Greg Knight) and my hon. Friend the Member for Bury North had torpedoed his amendment with regard to the definition of "politician", which is clearly unsatisfactory. As they both said, to include people who are elected but exclude those standing for election would be unacceptable, because everyone should be on a level playing field. Because amendment 2 is so good, it rather exposes the weaknesses in my hon. Friend's other amendments. He seems to be making the best of the bad job, working on the premise that if amendment 2 is not accepted, let us see what else we can do to try to make the Bill better. I think he should be focusing his fire on amendment 2; the others do not really cut the mustard.

My hon. Friend is also on to something with amendment 4, whereby he wants to include non-domestic ratepayers. He is absolutely right about that. I suppose that if he had not tabled amendment 2, I would have supported amendment 4, but if we go for amendment 2 we do not need to bother with amendment 4, because it rather weakens what he is trying to do with his lead amendment.

In amendments 5, 6 and 7, my hon. Friend is trying to make the best of a bad job with his "accredited", "professional" and "qualified" definitions of journalists. My hon. Friend the Member for Bury North pointed out that those were not good enough, and I accept that. I suspect that my hon. Friend the Member for Christchurch is a rather unenthusiastic supporter of those three amendments, but I appreciate his tabling them because they have prompted a debate to consider whether they have any merit. I think we have generally concluded that they do not, but I am grateful to him for allowing us to look at them.

Amendment 8 is about removing the definition of "journalist". Again, that amendment has merit, but amendment 2 rather supersedes it.

I wish to touch on amendment 1, tabled by my hon. Friend the Member for Bury North. I am interested in both the amendment and his defence of it. He made some very good points. I moved between supporting it, opposing it and supporting it again as he was making his remarks. He certainly put up a very good defence of it. I agree with the thrust of what he is trying to achieve, which is to extend the definition of "journalist" to cover as many people as possible. That is the common theme of what those of us who have spoken so far are trying to achieve. We want as many people as possible to have access to this information. The question is how we best achieve that.

Amendment 1 was a rather imaginative way of effectively trying to include virtually everybody. In some respects, it makes everybody a journalist, including those on Twitter and Facebook. I am not entirely sure how many people are not on Twitter or Facebook—they are the sensible ones as far as I am concerned—but probably not that many. I am not on Facebook, but I am on Twitter. I regard going on Twitter as probably one of the worst things I have ever done in my life. I have about 16,000 followers, all of whom hate me. It is very interesting to read what they have to say, but it all seems rather pointless. They can hurl as much abuse as they like—it does not bother me—but I am not entirely sure that it gets us anywhere. My hon. Friend wants to include those people in his definition of a journalist. As somebody who always wanted to be a journalist and actually did the National Council for the Training of Journalists course at Sheffield college, I am not entirely convinced that those of us on that course would think that any old moron on Twitter should be able to describe themselves as a journalist. None the less, that is the age that we are in. There is a lot of merit in what my hon. Friend says, and it would be bizarre in this day and age to exclude those people who publish material in those ways. That is the way of the world, and we must accept that whether we like it or not. It seems that he is working within the spirit of the Bill, and he made that clear during his remarks.

As my hon. Friend was speaking, I saw that the Bill said that

"'journalist' means any person who produces for publication journalistic material (whether paid to do so or otherwise)."

In the explanatory notes, it says that it covers journalists,

"including 'citizen journalists', that is bloggers and others who scrutinise local authorities but who may not be accredited members of the press to enable them to access a wider range of accounting material in order to report and publish their findings so that it is available to local electors in an area, thus providing them with information that will enable them to better hold their local council to account."

What this Bill seeks to do is what my hon. Friend's amendment states. I look forward to what the Minister and my hon. Friend the Member for Aldridge-Brownhills have to say in response. I cannot work out whether there is any reason for my hon. Friend the Member for Aldridge-Brownhills not to accept the amendment, because it seems to be the thrust of what she is trying to achieve, or whether there is no point to the amendment, because it will already be covered by the Bill. I cannot work out which of those two it is; it may well be an element of both.

My hon. Friend the Member for Bury North is trying to make sure that it is clear who is covered. It may well be that these people are already covered, but he wants

[Philip Davies]

to make that clear in the Bill. If that is what is happening, I do not see why anyone would want to oppose it. If all he is doing is clarifying what is intended anyway, it seems that we are all in agreement. I look forward to hearing whether amendment 1 is what this Bill is supposedly doing anyway.

My hon. Friend the Member for Christchurch made a very good case for all his amendments. I just wish to touch on amendment 10, which my hon. Friend the Member for Bury North called the most "controversial" one, and my hon. Friend the Member for Christchurch called the most "radical" one. I describe it as radical rather than controversial. I am not entirely sure why it would be controversial, but I do accept that it is radical. The amendment would ensure that the provision includes health service bodies. I would be very interested to hear the argument against what my hon. Friend is trying to do. Why would we not think that there should be full scrutiny of the accounts of a health service body? Why would we want to focus just on local councils? Why should other local health authorities not be subject to the same rigours? Surely no one could suggest that it is utterly terrible for a local authority to be wasting or misappropriating money, but that it is absolutely fine for a local health authority to do so.

If we want to be sure that local authorities are not doing things that they should not be doing, and that there is full accountability to the people whom they are supposed to serve and to the people who may take an interest in what they are doing, the same rules must apply to a local health authority. I cannot see why anyone would argue against that. Again, I am interested to know what the Minister and my hon. Friend the Member for Aldridge-Brownhills have to say on that and on why they think that one is more important than the other.

In many respects, one could argue that people might be more concerned about what is happening in their local health authority, rather than in their local authority. It may well be more important to their day-to-day lives. Again, the amendment is certainly radical, but I cannot see why it should be controversial. Many people would be astonished that a local health authority is not already included in the Bill. I praise my hon. Friend the Member for Christchurch for being absolutely forensic when scrutinising legislation, and this House would be much poorer without him doing so. It goes to show why Bills should not go through this place on the nod, and why we should have proper scrutiny. Lots of things come up in the course of that scrutiny that people have not considered. I do not blame my hon. Friend the Member for Aldridge-Brownhills for not including these measures. Indeed, it is why we have a debate and why we have amendments. The wisdom of 650 is quite clearly better than the wisdom of just one. Other people think of things that we would never have thought of. My hon. Friend the Member for Christchurch does so on a regular basis, and I commend him for that.

In summary, my hon. Friends the Members for Christchurch and for Bury North have done the House a great service by seeking to improve the Bill. Anybody can see that they are not trying to ruin it; they are trying to make it better. It is a good Bill so far, but it would certainly be improved by some of these amendments. My final analysis is that if my hon. Friends are to press any of their amendments to a Division—with your permission, Madam Deputy Speaker, of course—they should do so with amendments 2 and 10, because those amendments are the most powerful. The Bill represents an improvement, but amendments 2 and 10 would turn it into something that will be very good for the public and will stand the test of time. I wish the Bill well, and hope that it will pass with those amendments.

Teresa Pearce (Erith and Thamesmead) (Lab): I thank the hon. Member for Aldridge-Brownhills (Wendy Morton) for introducing the Bill. As someone who has brought a private Member's Bill to the House, I know the hard work that goes into it. Her Bill has got far further than my Bill did, and I wish her every success in taking it further.

12 noon

I do not intend to speak for too long. The Bill makes a relatively small change to existing legislation, but that change will increase transparency, improve openness and, I hope, increase public engagement in decision making. There are 14 amendments before us, in the names of the hon. Members for Christchurch (Mr Chope) and for Bury North (Mr Nuttall), and I will talk briefly about them.

Amendment 2 would extend the provision on public access to local audit documents to include people who are registered to vote in local elections in the UK. We support measures to extend transparency and openness, and the amendment would undoubtedly help to achieve that. Amendments 3 and 4 would adjust the Bill to include politicians and business rate payers in the list of people who can scrutinise local audit documents. As with amendment 2, which would largely cover those people, we support measures to extend transparency and openness.

Amendments 5, 6 and 7 would adjust the reference to "journalist" to require a journalist to be accredited, professional or qualified, and amendment 8 would remove the definition of journalist. I believe that the hon. Member for Christchurch tabled the amendments to ensure that the definition of a journalist was debated today, but I am hesitant about them. The Bill is designed to extend the ability to view the documents that we are discussing, and I am sure we all want to ensure that no journalist is unable to scrutinise them.

Amendment 1 would provide greater clarity by ensuring that clause 1 covers all journalists, from the humble local blogger to those in our very own Press Gallery in Parliament, regardless of whether payment or a subscription is needed to access the relevant publications. If the House wishes to make the provisions applicable only to journalists, we would have no objection to the amendment becoming part of the Bill.

Amendment 9 would ensure that anybody who was eligible to view the documents could do so at all reasonable times and without payment. As long as the Minister can assure us that the amendment would not impose a burden on local authorities, we would welcome it. Amendments 10 and 11 would extend the provisions to health service bodies and extend the period in which inspections can be carried beyond 30 days; we support that proposal. Amendment 13 would allow previous contracts to be inspected, and that is welcome. The scrutiny of past contracts will no doubt ensure that future contracts are drawn up in such a way as to secure the best possible service and value for money.

Amendment 12 would remove the restriction on inspecting parts of the accounts on the grounds of commercial confidentiality, but it would maintain the restriction on copying. Amendment 14 would remove the definition in the 2014 Act of when information is protected on the grounds of commercial confidentiality. I am hesitant to remove those protections without further detail and consultation with local authorities. I look forward to hearing the responses from the Minister and other hon. Members to the amendments.

The Parliamentary Under-Secretary of State for Communities and Local Government (Andrew Percy): I welcome the opportunity to speak on behalf of the Government, in place, I am sad to say, of the Under-Secretary of State for Communities and Local Government, my hon. Friend the Member for Nuneaton (Mr Jones), who has responsibility for local government. I know that he would be delighted to be here, were he not otherwise engaged. I, too, would be delighted if he were here, knowing as I do of his passion for the Bill.

Sir Greg Knight *rose—*

Andrew Percy: I will, of course, give way to my fellow east Yorkshire colleague.

Sir Greg Knight: Has my hon. Friend any information to relate to the House about why not a single Liberal Democrat is here?

Andrew Percy: Sadly not, other than that the public seemed to diminish Liberal Democrat numbers somewhat at the last general election, proving once again that members of the public are very sensible individuals, on the whole.

I welcome the opportunity to comment briefly on the amendments tabled by my hon. Friends the Members for Bury North (Mr Nuttall) and for Christchurch (Mr Chope), and on the important points made thus far. I had the privilege of stepping in for the Local Government Minister in Committee, when I offered the Government's support for the important principles behind the Bill.

The amendments have been tabled with the best of intentions—the Bill's promoter, my hon. Friend the Member for Aldridge-Brownhills (Wendy Morton), will deal with them in more detail—but I want to set out the Government's view on why we do not think agreeing to them would be a good idea. The Bill's virtue is its simplicity. By seeking to clarify what is meant in the legislation by where material may be published, amendment 1 may unintentionally—we know that it is unintentional from the speech made by my hon. Friend the Member for Bury North—narrow the places where such articles may be published. Sometimes, a less precise phrase in law permits a helpfully wider interpretation, and I believe that is the case here.

Mr Nuttall: I have no doubt that a similar argument would have been advanced when the original Audit Commission Act 1998—the legislation that led to the court case from which this Bill arises—was going through this House, so there is actually a strong argument for trying to be as clear as possible in the Bill about what is intended.

Andrew Percy: I do not agree. Given its reference to the internet and websites, my hon. Friend's amendment could unintentionally and unhelpfully narrow the interpretation.

Hon. Members may be interested to know that the concepts of journalistic material and publication already appear in legislation many times—although to my mind, "publication" in particular is a simple, plain English definition needing no further clarification. For example, "journalistic material" appears in section 264(2) of the Investigatory Powers Act 2016, as well as section 13 of the Police and Criminal Evidence Act 1984, and "publication" has similar antecedents.

It is fair to say, however, that not everybody who will seek to use the Bill will necessarily be familiar with the concepts and interpretation of those terms as they are used in it. I have heard what my hon. Friends have said and will therefore commit to ensuring that any accompanying explanatory notes are amended, if the Bill passes to the other place, to clarify those points. My hon. Friend the Member for Bury North referred to journalists as opposed to citizen journalists. The definition of a journalist includes citizen journalists, which is why a separate definition has not been required.

My hon. Friend the Member for Aldridge-Brownhills is keen to get to her feet and respond in detail to the amendments tabled by my hon. Friend the Member for Christchurch, so in the interests of brevity, I want to concentrate on two issues he raised—or, on reflection, maybe three. Amendment 2 would be likely to impose a new burden on local authorities, because we would be asking them to make their records available to everyone, which is something that they have not previously been required to do under the 2014 Act. That would therefore need to be funded by the Government, whereas we are seeking to extend the existing right to a defined group of people, and that would not be considered in the same light.

I heard what my hon. Friend said about amendment 10 regarding health bodies. I cannot speak on behalf of other Departments, but as Members of Parliament we are all concerned about transparency in the health system. The stated intention of the 2014 Act and the response to the consultation on it did not include health bodies. It would therefore be wrong to include those in the scope of the Bill.

Mr Chope: My hon. Friend was pretty succinct in rejecting amendment 2. Does he have any evidence of how much it would cost local authorities if it became part of the law, and will he seek to make a comparison between that cost and the pay-off for the chief executive of Bournemouth Borough Council?

Andrew Percy: I have listened with interest to my hon. Friend's comments about the chief executive of Bournemouth, but—perhaps to the delight of my officials—I will not say anything about that decision, especially in the light of the other issues affecting the potential reorganisation in Dorset at this time. Needless to say, extending such a right more generally to any elector across the United Kingdom might have a substantial impact, and it is likely that local authorities and public bodies would ask the Government for additional resources. I cannot give my hon. Friend a figure—I want to be honest with him at the Dispatch Box—but there is no doubt that extending the right in such a way would come with additional burdens.

[Andrew Percy]

Further to my hon. Friend's comments on amendments 12 to 14, paragraphs 31 and 32 of the local authority transparency code already require councils to publish quarterly spending and procurement information. He referred to tender documents, and the code requires the details of every invitation to tender for contracts to provide goods or services with a value that exceeds £5,000 to be published, as well as the details of any contract, commissioned activity, purchase order, framework agreement and other legally enforceable agreement with a value that exceeds £5,000. Such documents are of course available to anybody.

Last May, the Government consulted on updating the code to provide an opportunity for greater town hall transparency—Members on both sides of the House, but certainly Conservative Members, want that—and for enhanced scrutiny of the use of public assets and resources, including through the better comparison of data. In respect of contractual information, the consultation proposed to standardise the data and, importantly, to make comparisons easier through their publication in a central source. We hope to publish our response to the consultation shortly, and I hope that it will abate some of my hon. Friend's concerns about local transparency.

I want to deal quickly with an intervention by my hon. Friend the Member for Gainsborough (Sir Edward Leigh), who is not now in his place because he is on his way back to his constituency. He mentioned local government reorganisation in Lincolnshire and stated that one council is trying to take over another. I want to make it clear for the record that North Lincolnshire Council has not proposed to take over any other neighbouring authority. The Government have received no proposals of such a nature. All that is happening is that across Lincolnshire in the broadest sense—the county and the two unitary areas—a conversation is going on between council leaders about how the future of local government will look. It is important to provide that clarification as the matter was raised during this debate.

I hope that my hon. Friend the Member for Aldridge-Brownhills will address some of the amendments in a moment, but I am confident that my hon. Friends the Members for Bury North and for Christchurch will respond, in their usual way, with reasonableness and, as I think that I got from their speeches, with an understanding that what lies behind the Bill is a good thing—it will extend a right to increase transparency—so I urge them not to press their amendments but to enable the Bill to pass to the other place. I look forward to the further progress of the Bill this afternoon.

Wendy Morton: I am very pleased to be able to speak again on my private Member's Bill. As my hon. Friends have explained, no amendments were moved in Committee on 7 February—the passage of the Bill through Committee was quite swift—so the Bill has been reported to the House unamended.

The amendments tabled by my hon. Friends the Members for Bury North (Mr Nuttall) and for Christchurch (Mr Chope) are therefore late entries to the debate, but I was very keen to listen to their arguments. They have provided some additional scrutiny and additional debate in the Chamber.

12.15 pm

I was surprised by the number of amendments—there were 13 or 14—and having brought a private Member's Bill to the House last year, I wondered whether this was some kind of record. I was assured by my hon. Friend the Member for Christchurch that that was not the case. I accept, as a new Member, that I probably still have a lot to learn. None the less, I am grateful to my hon. Friends for their amendments and for their contributions this morning. As my hon. Friend the Member for Bury North put it, they were succinct contributions.

I listened to my hon. Friends' contributions and considered their amendments carefully. I am not convinced, however, that the changes would be helpful to what I believe is, at heart, a very simple Bill. The Bill has one purpose alone: to extend the definition of "interested person" to journalists, including citizen journalists. They will have access to a wider range of local audit documents to assist with their investigations, enabling them to publicise their findings, so that local electors are made more aware and are better able to hold their councils to account for their actions through questioning the auditor or making an objection. Much has been said about openness and transparency, and the Bill will make a valuable contribution in that regard.

Let me respond first to amendment 2 and add my thoughts to those aired by the Minister. Amendment 2, tabled by my hon. Friend the Member for Christchurch, seeks to extend inspection rights under section 26 to all UK-registered local electors. This would essentially give the public at large the right to inspect the accounting documents of any local authority in England. The local audit framework already introduces mandatory transparency codes for the very smallest and the largest public bodies. It requires the electronic publication of key financial and other data, so they are available for all to view free of charge. Ministers clearly flagged their intention to extend the right to the specific inspection of accounting information to journalists to assist them in their investigations, but to extend those rights to everyone would vastly expand the potential for mischief making without any wider public benefit.

In addition, to permit anyone to inspect this wider range of accounting information could, I fear, result in a greater cost burden on local authorities, as they might well, to prevent numerous requests to inspect, decide to scan and upload a large amount of additional information every year, with the unintended consequence of making it harder for the man in the street to find basic useful data. I have been very mindful of the burden on local authorities. We must ensure we strike the right balance.

Amendments 3 and 4 also seek to amend who has the right to inspect the accounting documents under section 26, although to a lesser degree. Again, I do not consider these amendments to be desirable. For example, "politician" is a loosely defined term and could open inspection rights to people outside the UK. I have visions of the President of the United States asking to see the accounts of my local authority in Walsall, or even in the local authority in Christchurch. Unlike journalists, whose role is to disseminate information publicly, this would not necessarily be part of a politician's remit unless it was in their interest. Removing the definition of "journalist" from the Bill would undermine its whole purpose in relation to citizen journalists. Specifically in relation to amendment 4, the courts have

already clarified that a non-domestic rate payer would be considered as an interested person. This amendment is therefore unnecessary.

Broadly speaking, amendments 5 to 8, also tabled by my hon. Friend the Member for Christchurch, seek to refine the definition of "journalist" and remove the rights of citizen journalists and bloggers from the Bill. Although I realise that my hon. Friend is trying to defend the ideal of the fourth estate—the press, as defined by the Scottish philosopher Edmund Burke in the 18th century—I think he needs to recognise that there is now a fifth estate, consisting of networked individuals with the ability to share information, create communities and organise social movements online. It is not possible to turn back the clock. We must accept that many people today obtain their information from non-traditional sources, which is precisely why the Bill includes the concept of a citizen journalist.

The term "citizen journalist" includes bloggers and others who scrutinise local authorities but may not be accredited members of the press—we have discussed that this morning—but that does not mean that it would cover anyone with social media access. The reference in the Bill to "journalistic material" focuses on what a person does, and suggests that such a person would be able to provide details of other blogs or tweets that he or she had authored, and forums in which they had been published, in order to inspect the accounting documents requested. Use of the term "publication" implies a public element. While it might include journalistic material tweeted on Twitter, it would not include material circulated to a small, "invite only" Facebook group.

Mr Nuttall: I should have covered this point in my speech, and I apologise for not having done so. I do not think we should go solely by that parameter. What if a local Facebook group contains 5,000 local interested residents? Surely that constitutes publication to interested people. It is just as valid as publishing material in a newspaper that no one reads.

Wendy Morton: That is a fair point, but what I am driving at is the difference between a small "invite only" Facebook group, which the Bill will not cover, and a broader, open Facebook group. The Bill is about transparency and openness, not about "invite only" groups.

The definition is also unlikely to include material sent as a direct message via Twitter, Facebook or email. It might be expected to include people such as Guido Fawkes, a blogger whom most of us know of, but not a campaign group such as 38 Degrees or SumOfUs.

I believe that the aim of amendment 1, tabled by my hon. Friend the Member for Bury North, is to clarify the fact that the Bill would cover all journalists who might wish to publish their articles in a newspaper or on the internet, irrespective of whether there were charges. Let me reassure my hon. Friend that the Bill, as drafted, would include an article in a newspaper or magazine or on the internet, either on a website or in a blog, whether paid for or free, through use of the words "journalistic material" and "for publication". In fact, by specifying where such material is published, he may be limiting the potential forums in which it is placed, as a blog or a tweet may not be part of a specific website.

The issue is important, because it is necessary to keep up with the times and use terminology that incorporates the many and varied realms of the internet, such as Twitter and the "blogosphere" . Some Members may fear that that might mean that anyone could say that they blog or tweet, but the onus would be on such people to show that their work had been made available in a sufficiently public forum in order to prove their credentials as citizen journalists before access could be given.

Mr Nuttall: My hon. Friend refers to a "sufficiently public forum." How many members of the public would be required to meet that criterion?

Wendy Morton: What I am trying to set out here is the difference between information that goes on to a private forum—such as open Facebook sites, direct emails and Twitter—and the more open social media that citizen bloggers would be proving that they are on. At its heart, this Bill is about giving citizen bloggers access to local government accounts, so that they can put information into the public domain and the electors can then conduct further scrutiny if they so wish.

Philip Davies: I am concerned that we might end up getting ourselves into a muddle. Many journalistic publications are private-subscription; the reader has to subscribe privately in order to get information from *The Spectator*, for example, so it is not in that sense public. I am therefore not entirely sure why we are distinguishing between a magazine publication that is a private subscription magazine, which it seems to me would still be covered by the Bill, and other private publications that my hon. Friend is seeking to exclude from the Bill. Why cannot we just include everything?

Wendy Morton: There are many sites that do not require a subscription, and I am endeavouring to explain the difference and address the need to ensure that the citizen blogger is someone who is getting information for the greater use of the public, rather than just for a private-only social media group or direct Twitter.

I want to move on now and speak to amendments 9, 10 and 11, also tabled by my hon. Friend the Member for Christchurch. On amendment 9, I recognise that he is seeking to achieve comparability with the rights held by electors under section 25(3) of the Local Audit and Accountability Act 2014. While it is not explicitly included in section 26, because this is a right enshrined in law my view is that a council would be on questionable ground if it tried to charge an interested person to inspect their accounting records, as it would in effect be fettering that right. Furthermore, there are existing powers in the Local Government Act 2003 for an authority to charge for discretionary services—that is, services that it is not under a duty to provide. In facilitating an interested person's right to inspect documents, an authority would surely not be able to charge, as that person has a right to inspect. In addition, while section 26(1)(b) also gives a right to interested persons to "make copies", there is no equivalent provision requiring an authority to provide copies to them. This would be a discretionary service, so the authority could be relying on its powers under the 2003 Act to charge for providing copies.

[Wendy Morton]

On amendment 10, sections 25 and 26 of the 2014 Act exclude health bodies, because the inspection rights in relation to their accounts do not apply. Health bodies differ in several key respects from other relevant authorities covered by the 2014 Act, not least in the treatment of their accounts, which include separate monitoring arrangements through the NHS and the Department of Health. In addition, the Government's initial stated intention to act in this respect in their 2014 response to consultation did not include health bodies. It would therefore be wrong to extend these rights now. I hope that provides my hon. Friend the Member for Christchurch with some reassurance on amendment 10.

It is my understanding that amendment 11 seeks to extend the right to inspect accounting documents beyond the current accounting year. The primary purpose of these rights at present is to enable the interested persons, which would include a local government elector, to inspect these additional documents so that they have all the information they might need in order to question the auditor and potentially make an objection within the 30 working-day period while the accounts for that year are still open.

Once the accounts have been signed off, the right lapses because the auditor is unable to investigate the question raised or the objection made, so being able to inspect past years' accounting information becomes an academic exercise. I must also point out that the 30-day period is provided for in secondary legislation, which I believe makes the amendment inappropriate. Again I hope that I have been able to clarify the points that have been raised.

12.30 pm

Amendments 12, 13 and 14 were also tabled by my hon. Friend the Member for Christchurch. I consider that they go beyond what my Bill is trying to achieve, in that they would tamper with the ability of local authorities to restrict access to commercially sensitive information. It is important that some information, the disclosure of which would prejudice commercial confidentiality, should remain exempt from rights of inspection. Similar provisions exist in the Freedom of Information Act 2000, and I do not believe that my Bill is the right place to challenge those provisions, which could easily be the subject of a separate debate.

Section 26(5) of the 2014 Act sensibly includes the provision that inspection would be permitted if there were an overriding public interest in favour of the disclosure of information that might otherwise prejudice commercial confidentiality. It appears, to me at least, that the legislation strikes a reasonable balance between allowing for the inspection of commercially confidential information that it is in the public interest to disclose and protecting information that it would not be in the public interest to disclose.

This is a straightforward Bill that does exactly what it says on the tin—and on the face of the Bill. I am grateful to my hon. Friends for their contributions, which have given us more to think through, but none of the amendments would add to the Bill's simplicity. None the less, I thank my hon. Friends the Members for Christchurch and for Bury North for their amendments.

Mr Chope: May I begin by thanking the promoter of the Bill, my hon. Friend the Member for Aldridge-Brownhills (Wendy Morton)? She has been assiduous in addressing the amendments that we have tabled. Would that that were always the case. She has also been charming and courteous in how she has dealt with us throughout the proceedings, so it is with some dismay that I say I cannot agree with everything she has said.

Before I go into detail, however, I should like to point out how helpful it has been to hear the views of the shadow Minister, the hon. Member for Erith and Thamesmead (Teresa Pearce). She supports some of the amendments, which gives me extra enthusiasm and confidence that I am on to a good thing here. I have always been in favour of trying to find consensus across the House and gaining cross-party support. The shadow Minister expressed support for amendment 2 and amendment 10. I am not going to push amendment 10 to a vote, but I certainly hope to do so with amendment 2. We will need to come back to amendment 10, because I think my hon. Friend the Member for Aldridge-Brownhills —and indeed the whole House—will agree that there is a strong case for extending those powers to health bodies.

Let me turn to the objection to amendment 2 put forward by the Under-Secretary of State for Communities and Local Government, my hon. Friend the Member for Brigg and Goole (Andrew Percy). He said that it would place a new burden on local authorities, which would have to be funded by the Government. In fairness to him, however, he made no bones about the fact that he had no idea of the extent of that burden. He has made no estimate of it. In my submission, it would be relatively small and it would tend to be a burden only for those local authorities that were not already sufficiently transparent and accountable. It is those authorities that would, because of their secrecy, prompt people to try to inspect their books and accounts.

Philip Davies: Does my hon. Friend agree that this scrutiny of local authorities would probably lead to their saving more money in their everyday business than it would cost them to implement the provisions in amendment 2?

Mr Chope: I absolutely agree. As with all such things, the issue is one of proportionality. There is a balance between the burden on local government and the benefit to the public interest. In the case of amendment 2, the benefit to the public interest far outweighs any miniscule burden on local authorities, even if the argument put forward by my hon. Friend was not accepted by those authorities.

My hon. Friend the Member for Aldridge-Brownhills said that the Bill does what it says on the tin and talked about wanting to confine the Bill to extending rights to journalists. However, I remind her of the long title of her own Bill. It is a Bill to

"Extend public access to certain local audit documents under section 26 of the Local Audit and Accountability Act 2014."

It is not limited to journalists. If my hon. Friend had wanted to limit it to journalists, she could have done so when she put down the long title of the Bill. It is sensible that we should take this opportunity to see

whether we can make this Bill a bigger, more substantial piece of legislation than it would otherwise be, so I want to press amendment 2 to a vote.

Question put, That the amendment be made.

The House divided: Ayes 15, Noes 41.

Division No. 187] [12.36 pm

AYES

Brown, rh Mr Nicholas
Campbell, rh Mr Alan
Chope, Mr Christopher
Dowd, Jim
Fitzpatrick, Jim
Glindon, Mary
Hollobone, Mr Philip
Huq, Dr Rupa
Kane, Mike
Knight, rh Sir Greg
McDonald, Andy
Pearce, Teresa
Sherriff, Paula
Smith, Nick
Thornberry, rh Emily

Tellers for the Ayes:
Mr David Nuttall and Philip Davies

NOES

Argar, Edward
Atkins, Victoria
Donelan, Michelle
Ellis, Michael
Eustice, George
Field, rh Mark
Freer, Mike
Garnier, Mark
Glen, John
Goodwill, Mr Robert
Gummer, rh Ben
Gyimah, Mr Sam
Hancock, rh Matt
Harris, Rebecca
Hayes, rh Mr John
Heaton-Harris, Chris
Heaton-Jones, Peter
Hurd, Mr Nick
Jayawardena, Mr Ranil
Johnson, Gareth
Jones, Andrew
Kennedy, Seema
Kirby, Simon
Latham, Pauline
Mathias, Dr Tania
Milling, Amanda
Milton, rh Anne
Mordaunt, Penny
Morris, James
Morton, Wendy
Mowat, David
Penning, rh Mike
Percy, Andrew
Smith, Julian
Solloway, Amanda
Throup, Maggie
Timpson, Edward
Tomlinson, Michael
Villiers, rh Mrs Theresa
Walker, Mr Robin
Wharton, James

Tellers for the Noes:
Rebecca Pow and Kevin Hollinrake

Question accordingly negatived.

Third Reading

12.47 pm

Wendy Morton: I beg to move, That the Bill be now read the Third time.

Despite having had some previous success with a private Member's Bill in this place, it is always special to have brought a Bill to its Third Reading. I am particularly pleased to have been able to introduce this Bill because although, as I have said, it is short and simple, it will have an impact nationally in potentially improving the transparency of local councils. I hope it will have an impact within my own local council area of Walsall and will help local journalists there. We have some excellent local newspapers—the *Walsall Advertiser*, *The Express & Star*, the *Chronicle* and the *Sutton Coldfield Observer*. As I set out at the start, the Bill's intention is to improve transparency and accountability in both central and local government. This Government have done much to improve that since coming to power, and I am pleased to play my small part in furthering that agenda.

Michael Tomlinson (Mid Dorset and North Poole) (Con): I congratulate my hon. Friend on piloting this Bill through its many stages in the House of Commons. She is fast becoming a master of these private Members' Bill Fridays, although she is far too bashful to say so. I believe this worthy Bill will really add something to our statute book.

Wendy Morton: I am grateful to my hon. Friend, who also contributed on Second Reading, for his kind words. I am grateful to all hon. Members who have played a part in the progress of this Bill. If even one journalist or one citizen journalist uses this power to bring poor spending decisions or untoward expenditure to the attention of local electors so that they can ask questions of the auditor or object to their council's accounts, thus forcing people to account publicly for their spending decisions, this Bill will have done its part.

In conclusion, I thank all those who have enabled me to get my Bill to Third Reading. I thank those who initially supported it, those who contributed on Second Reading, and those who supported me in Committee as well. I also thank everyone present for giving up yet another precious constituency Friday in a week that has not been the easiest in this place, or in this country. I hope that the Bill's smooth and speedy passage through this place and into the other place continues, and that it becomes law.

12.50 pm

Mr Chope: I, too, congratulate my hon. Friend the Member for Aldridge-Brownhills (Wendy Morton) on having taken the Bill so far. As I said on Report, I do not oppose the Bill. I think it could have been so much stronger and more worth while, but that is how it is. Friday business is iterative in nature: once an issue has been ventilated on a Friday, as sure as eggs are eggs, it is probably going to come back on another Friday. Ultimately, the extension of the rights in the Bill to include health bodies and to go beyond journalists is likely to find favour with other Members.

As my hon. Friend said, the Bill is currently limited to extending the powers under section 26 of the Local Audit and Accountability Act 2014 to journalists. We are extending them in a climate in which journalists are under a lot of pressure. Perhaps one exception to that is the fact that a new local newspaper has started in Christchurch this week. The title the *Christchurch Times* has been revived, and edition one is out this week; I look forward to reading a copy when I get back to my constituency later. That shows that local newspapers are not dying or dead.

Sir Greg Knight: Will my hon. Friend tell the House whether he has any intention of becoming the editor of this publication?

Mr Chope: I am afraid that is commercially confidential. *[Interruption.]* My hon. Friend the Member for Mid Dorset and North Poole (Michael Tomlinson) says that I am waiting for a better offer. It is really good news that our local news service is going to be strengthened.

Mr Nuttall: I agree with my hon. Friend that the new arrival on the newspaper scene in his constituency is good news. Does he know whether the newspaper in question, being a new arrival, is making use of the new breed of citizen journalists we have been discussing?

Mr Chope: I suspect it is probably going to rely on citizen journalists to send it letters and report to real journalists information that they think the newspaper should investigate. I think it is going to have a responsible attitude to ensuring that the news it prints is properly authenticated and cannot be put in the category of fake news, or news the sources of which have not been properly checked out. I regard it as an example of highly responsible journalism.

I think we will find similarly responsible journalism from the additional reporters who are going to be recruited throughout the United Kingdom as a result of the requirement on the BBC to set aside money to pay for local reporters. As I said earlier, the BBC has set aside £8 million a year to pay for 150 reporters who will work for local news organisations, rather than the BBC, throughout the country. I am sure that those reporters will be professional, accredited and responsible journalists, and that they will add to the scrutiny of local democracy throughout the country.

I know from reports that, unfortunately, not all parts of the country are as well served by their local newspapers as we are in Dorset. There are parts of the country, including constituencies and whole local authority areas, in which no proper newspaper operates—certainly not a daily newspaper and, quite often, not even a weekly newspaper. That means that it is very difficult to hold local authorities properly to account.

I have referred to local stories, but how about this headline from 16 January: "Poole council revamp 'waste of money' before merger"? The story refers to the fact that the council proposes to spend £250,000 on revamping the civic centre when it also proposes that it should be abolished in favour of a council merger. There is another one from Bournemouth: "Council shuts £15 million bank of Bournemouth after issuing just 22 loans", which happened just 18 months after it was created. That was another completely haywire scheme that cost local tax payers a lot of money. Nobody has been properly held to account for it.

I could go on, but will not. The Bill could have been so much better than it is, but it is better than nothing and for that I thank my hon. Friend the Member for Aldridge—Brownhills. I do not know whether it will find favour in the other place in the short space of time it has to consider it. One of my concerns about Bills going through at this late stage in the Session is that, if the other place is minded to amend them—I hope the Lords is minded to amend this Bill in the light of the debates we have had today—it is often inhibited, and told, "If you amend it, the Bill will not be able to come before the Commons before the end of the Session." In that context, I hope the Minister in responding to the debate can give an assurance that the Government will provide time to ensure that the Bill will be dealt with by the Commons before the end of the Session if their lordships are minded to amend it in any way, so that that pistol cannot be held to the head of anybody who seeks to amend the Bill in the Lords. If they amend the Bill, it will be the death of it. Having said that, I will support the Bill should there be a Division.

12.57 pm

Mr Nuttall: I, too, welcome the Bill in the spirit in which it has been introduced, despite the fact that my attempt to amend it did not meet with the approval of the promoter of the Bill, my hon. Friend the Member for Aldridge-Brownhills (Wendy Morton). As I said at the time, it was not a wrecking amendment but a genuine proposal to try to improve the Bill.

I listened carefully to my hon. Friend on amendment 1 but did not wholly agree with her. The explanatory notes refer to citizen journalists, and the heading of clause 1 includes the words "and citizen journalists". Her explanation was that journalists includes citizen journalists. If that is the case, why was it thought necessary to go on to say "and citizen journalists" in the title of clause? That needs looking at again, but I am conscious of the important point made by my hon. Friend the Member for Christchurch (Mr Chope). I appreciate that, if it were amended in the other place, it would spell the death of the Bill in this Session, unless the Government make time for the Commons to consider any Lords amendments. It is a question of what is more important. Is it more important that we get this legislation right, or do we let it go through in a form that we are not happy with? It is a fine balance. I hope that the answer lies in the Government saying that if the other place does feel that it is appropriate for the Bill to be amended, they will find Government time in which to consider those amendments on the grounds that those in the other place may have read this debate and heard our arguments as to why the Bill would benefit from further clarification. Their lordships may reach a different view from that taken by this House today.

The reason I suggest that it would be appropriate for the Government to find time for any Lords amendments to be considered is that after the Act that this Bill seeks to amend—the Local Audit and Accountability Act 2014—was passed, it was put out to consultation by the Department for Communities and Local Government. In December 2014, it published its response, which says at paragraph 4.11 on page 10:

> "Government believes that journalists should also be able to inspect accounts and information, in the interests of local people, and therefore intends to legislate at the earliest opportunity to ensure that the definition of 'persons interested'",

as defined in section 26 of the 2014 Act,

> "is wide enough to enable this."

That was a very clear commitment by the Government to making this amendment to the legislation, albeit that it is now being introduced in a private Member's Bill. There is therefore a sound argument as to why they should make this time available.

I wholeheartedly support the general thrust of the Bill. It is right that we should give as much access as possible to those who are "interested"—the phraseology used in the initial legislation, which is now being extended to include journalists. I am sorry that we are not extending that to all electors who can vote in local elections, but the Bill is nevertheless a step in the right direction. It is right that we try to extend the right to inspect the accounts of local government, and all the other bodies listed in schedule 2 of the 2014 Act, to journalists and citizen journalists.

I accept that there is a concern that this might result in those bodies being inundated with requests, as was suggested earlier, but there is no evidence to suggest that that would be the case. I suspect that the answer lies in the legislation, which provides for the bodies to be able to charge for copies of documents that are taken away. We are weighing up two competing interests. The

overriding interest is the interest of the public in knowing what is going on. The alternative is to say, "Well, once the accounts are published, there should be no right for anyone to go in and inspect the underlying documents, the books of accounts and so forth." I do not think that any of us would want to go down that road. I suspect that what we have stumbled on here is probably the best of the options available to us. I would like to have gone further, but, nevertheless, extending the right to journalists is better than nothing. It is now up to journalists to make use of the new power that will be given to them once this Bill becomes law.

It will be interesting to see whether anybody covered by this Bill actually seeks to do what Bristol council did in respect of the 2014 Act and exclude citizen journalists because they are not specifically mentioned other than in the clause title. I hope that does not happen. If anyone tries to do that, I would refer them to the explanatory notes, which makes it very clear that the term "citizen journalists" should include

"bloggers and others who scrutinise local authorities but who may not be accredited member of the press."

Paragraph 7 of the explanatory notes states:

"As well as accredited members of the press, the term journalist would be extended to cover 'citizen journalists', such as bloggers, enabling them to inspect the accounts of a local authority where they are not a local elector so that in publishing their findings they can help enable the public to hold that local authority to account."

That is the key to the whole Bill. It is about being able to hold elected politicians to account. I trust that when the Bill is considered by the Lords, they will look carefully at the arguments that have been made here and consider whether it is worthy of further amendment. But I hope that the Bill is not amended in the other place unless there is an assurance that the Government will provide time—it will have to be Government time, as there are no more private Members' days allocated in this Session—for those amendments to be considered.

I thank my hon. Friend the Member for Aldridge-Brownhills for her work in ensuring that the Bill has reached this stage and for the efficient and courteous way that she has handled proceedings. I wish the Bill well.

1.8 pm

Teresa Pearce: I do not intend to make more than a few remarks on Third Reading, as this Bill has the support of the Opposition, the Government and the Local Government Association. It is a short, and welcome, piece of legislation which aims to improve transparency and accountability of local public bodies. In an era in which local newspapers are in many places diminishing and in some places do not exist at all, extending transparency of public bodies benefits all of our local democracy.

Indeed, as we devolve more powers and sometimes even funding to local authorities, there is an ever increasing need for greater transparency. There are many other important Bills to be debated today, so I will draw my comments to a close.

Mr Deputy Speaker (Mr Lindsay Hoyle): I call the Minister.

1.9 pm

Andrew Percy: It is a pleasure, Madam Deputy Speaker—*[Interruption.]* Mr Deputy Speaker, you have changed.

I am still recovering from the exciting debate on Report. I was delighted to be able to contribute to it, as I was to be able to contribute to the debate in Committee. It is also a pleasure to speak on Third Reading on behalf of the Government and once again to offer our support for the Bill of my hon. Friend the Member for Aldridge-Brownhills (Wendy Morton). I pay tribute to her for getting it this far, and I pay tribute to the other hon. Members who have sponsored and supported it. I associate myself entirely with her comments about how nice it is, after a week that has been difficult for Parliament, to be here looking at the detail of the legislation—doing the job that we are elected to do, and that others tried to prevent us from doing this week.

The Government have supported this Bill from the beginning, and I note the Opposition's support as well. We have done so because it furthers our ambitions of improving local transparency and accountability by extending this important right to journalists. I pay tribute to the other hon. Members who spoke today, and I associate myself with the comments of my hon. Friend the Member for Christchurch (Mr Chope) about the importance of local newspapers to local transparency and accountability. It would be wrong of me not to mention the excellent work of one of my local papers, the *Goole Times*, thereby securing my place in it next week. Local newspapers are very important to local democracy and accountability, and I associate myself with everything he said about that.

I will say little more than that, because there is other business to be conducted. I thank my hon. Friend the Member for Aldridge-Brownhills for bringing forward the Bill, and I congratulate her on its passage unamended through this House. We wish the Bill well in the other place. I understand that she has already secured the support of the noble Baroness Eaton of Cottingley. Without wanting to jinx the Bill, I hope that it will pass into law before the end of the Session. In response to the direct question from my hon. Friend the Member for Christchurch, I am not in a position at this time to make any guarantees about future time, should this Bill be amended in the other place, although the Government's hope and wish is that it will pass through the other place unamended.

Question put and agreed to.

Bill accordingly read the Third time and passed.

Merchant Shipping (Homosexual Conduct) Bill

Consideration of Bill, as amended in the Public Bill Committee.

Clause 1

HOMOSEXUAL ACTS IN THE MERCHANT NAVY: REPEALS

1.12 pm

Mr Christopher Chope (Christchurch) (Con): I beg to move amendment 1, page 1, line 4, at end insert—

'(2) Subsection (1) shall have effect and be taken always to have had effect from 3 November 1994."

This amendment would make the repeal of sections 146(3) and 147(3) of the Criminal Justice and Public Order Act 1994 retrospective to the date they came into operation.

I hope that the amendment will find favour with the House and with the Bill's promoter, my hon. Friend the Member for Salisbury (John Glen), whom I congratulate on having taken the Bill so far.

Sir Greg Knight (East Yorkshire) (Con): My hon. Friend is a passionate democrat. Does he not agree that there is something profoundly undemocratic about seeking to make a retrospective change to the law?

Mr Chope: I would not use the term undemocratic. If this democracy decides to make some retrospective legislation, that is an act of democracy, but I agree with my right hon. Friend that retrospective legislation must be very much the exception. In my brief remarks, I will try to spell out why I think that the Bill deals with a special situation. We know that Alan Turing, who had been convicted of a criminal offence, was pardoned by means of a retrospective Act. Subsequent legislation enabled other people who were similarly convicted to apply for their convictions to be effectively quashed.

There are other examples of retrospective legislation, but the interesting thing about the Bill is that it deals with a situation that is almost nugatory anyway. The overview of the Bill in the explanatory notes states:

"Whilst the sections are no longer of any legal effect due to other legislation (primarily, the Equality Act 2010 and regulations made under it), repealing them would both be symbolic and would prevent any misunderstanding as to their current effect."

That seems to me to put this Bill into a completely different category from the norm of Bills that one would seek to have retrospective effect. This provision no longer has any legal effect because of other legislation. If we accept that the Bill is symbolic, what better symbol could there be than to say that at all material times this provision, which was incorporated into the Criminal Justice and Public Order Act 1994 by a Back-Bench amendment, is deemed to have had no effect? It seems to me that my amendment meets the test of special circumstances—a test that, I am the first to accept, we should always apply when considering whether to countenance retrospective legislation.

1.15 pm

There have unfortunately been a number of recent examples of retrospective legislation being necessary, normally because of what can only be put down to crass errors by the Government of the time. For example, the Mental Health (Approval Functions) Act 2012 was rushed through Parliament because it became apparent that approximately 2,000 doctors dealing with mental health issues had not been properly approved and had participated in the detention of between 4,000 and 5,000 patients in institutions in the NHS and the independent sector without legal authority. That was because of a mistake in the primary legislation. There are a number of other examples, which I am sure some of my hon. Friends will refer to in the debate.

I accept that it should be only in the most extreme circumstances that we make legislation retrospective. As the Bill is essentially a gesture—a symbolic gesture whereby this House can show solidarity with people who would otherwise have been victims of the amendments made during the passage of the 1994 Act—it seems to me that the policy and the legal background make it perfectly reasonable to support the amendment. Paragraph 10 of the explanatory notes, under "Legal background", says:

"Sections 146(4) and 147(3) were added during passage of the Bill following non-government amendments. The proposer of the amendments was concerned that making the homosexual conduct legal in both the Armed Forces and Merchant Navy might mean that homosexuals could not be dismissed for engaging in it, or that such conduct could not be used as the basis of a prosecution under military discipline."

Those provisions were saving provisions, which meant that they did not repeal or override other legislation, and other legislation has been introduced to ensure that they have no applicability.

This is a narrow point. I hope that my hon. Friend the Member for Salisbury and the Government will accept the motivation behind the amendment and its contents and will incorporate it in the Bill. That really will tidy up the statute book, because it will have the effect of this provision never having been legislation.

Philip Davies (Shipley) (Con): The amendment moved by my hon. Friend the Member for Christchurch (Mr Chope) is trying to introduce retrospective legislation, as my right hon. Friend the Member for East Yorkshire (Sir Greg Knight) said. Like my right hon. Friend, I am not naturally in favour of retrospective legislation—it is a bit like rewriting history—and I have opposed it in the past. However, as I think I said on Second Reading, the law should never have been put in place, so in that sense I absolutely understand why my hon. Friend the Member for Salisbury (John Glen) wants to make the law retrospective. Many people in the House agree that the law should never have been put in place, so in effect he is neatly correcting that situation.

We should start by looking at the effect of the amendment. I asked the Library, which is always helpful, about its effect. One of its staff said that

"the amendment would have retrospective effect, going back to 1994. The Bill is seeking to repeal law which provides that it would not be unfair to dismiss a seafarer for a homosexual act. The amendment would mean that any dismissal on that basis since 1994 would not enjoy the statutory protection against being deemed an unfair dismissal."

It went on:

"So far as I can see, the amendment would have no practical effect. Any dismissal of a seafarer for a reason relating to a homosexual act could already constitute sexual orientation discrimination. This has been unlawful, in respect of seafarers,

since at least 2011. Claims in respect of the period before 2011 would be well out of time under, among others, the Limitation Act 1980. As such, any seafarer dismissed since 1994 for a homosexual act would, already, have a claim or be out of time for making one. The amendment/Bill would not change either of those things. It would therefore appear that the amendment is intended as a symbolic gesture."

We are in the rather bizarre situation that, in effect, the Bill makes no real practical change, because equality laws are already in place, and the amendment moved by my hon. Friend the Member for Christchurch would have no practical impact either. It must be a first that a Bill going through Parliament would make no real difference to the law and that an amendment to it would make no difference to the law either. There may be some historical precedents for such a situation, but I have certainly not been aware of one during my few years in the House.

I suspect that that is, in many respects, my hon. Friend's case: as the Bill is only symbolic, there is no harm in his symbolic retrospective amendment, even though we may in essence be against the principle of retrospective legislation. In that sense, the amendment is not retrospective, because it will not change the impact of anything. To be perfectly frank, I am not entirely sure where that leaves us. It seems to me that it leaves us wherever people want to be left: you pays your money and you takes your choice. People may want to be a purist, like my right hon. Friend the Member for East Yorkshire, and say, "I will vote against retrospective legislation come what may," or they may want to take the view of my hon. Friend the Member for Christchurch and say, "As we are dealing with symbolic legislation, there is nothing wrong with retrospective symbolism in the Bill." I do not know which is right.

I asked the Library to help me with any other examples of retrospective legislation. Under the heading, "What is retrospective legislation?", the Library briefing on this subject says:

"Retrospective legislation is generally defined as legislation which 'takes away or impairs any vested right acquired under existing laws, or creates a new obligation, or imposes a new duty, or attaches a new disability in respect to transactions or considerations already past'.

Mr Chope: If my hon. Friend pauses to look at this again, he will see that, under that definition, the amendment would not be retrospective legislation, would it? The amendment would not take away or impair any vested right that has been acquired under existing laws, would not create a new obligation, would not impose a new duty and would not attach a new disability in respect to transactions or considerations already past.

Philip Davies: Exactly. My hon. Friend is right. Unfortunately, he is slightly arguing against himself. The explanatory statement, which, as ever, he helpfully printed alongside his amendment, states that it would make the repeal retrospective. Having explained that to the House, he now appears to be arguing that he would not make it retrospective. I am not really sure where that takes us.

Mr Chope: The distinction is that this would be retrospective, but it would not amount to retrospective legislation under the terms of the definition to which my hon. Friend referred.

Philip Davies: I can tell why my hon. Friend was such a successful lawyer. He is now getting into legalistic lawyer jargon that is way above my head as a poor former retailer. He goes way beyond my knowledge base. I am sure he has justified that to himself, but I am not sure that I quite understand it.

The "Oxford Dictionary of Law" states that retrospective legislation

"operates on matters taking place before its enactment, e.g. by penalising conduct that was lawful when it occurred. There is a presumption that statutes are not intended to have retroactive effect unless they merely change legal procedure."

The last time, as far as I can see, that the Government set out their policy on retrospective legislation was when somebody put a parliamentary question to the last Labour Government. The then Solicitor General said:

"The Government's policy before introducing a legislative provision having retrospective effect is to balance the conflicting public interests and to consider whether the general public interest in the law not being changed retrospectively may be outweighed by any competing public interest. In making this assessment the Government will have regard to relevant international standards including those of the European Convention for the Protection of Human Rights and Fundamental Freedoms which was incorporated into United Kingdom law by the Human Rights Act 1998."—[*Official Report*, 6 March 2002; Vol. 381, c. 410W.]

I mention that because in some respects that backs up my hon. Friend's position. In effect, it says that the Government's position is a matter of looking at the public interest. My hon. Friend rightly says that there is no public interest in not making the legislation retrospective, so in some respects that adds some lustre to his argument.

The Library provided other examples of retrospective legislation:

"Statutory Instruments (Production and Sale) Act 1996, which amended the Statutory Instruments Act 1946 to validate retrospectively and authorise prospectively the printing of statutory instruments by contractors working for HMSO.

Caravans (Standard Community Charge and Rating) Act 1991 which amongst other provisions excluded caravans from the definition of 'domestic subjects' in the Abolition of Domestic Rates Etc. (Scotland) Act 1987 and deemed the amendment to have had effect since 1 April 1990."

It cites the Compensation Act 2006 and states:

"The Scotland Act 2012 provided that the regulation of activities in Antarctica should be treated as having been reserved to the UK Government from the beginning of devolution, even though it had not been reserved in the Scotland Act 1998."

Mr David Nuttall (Bury North) (Con): My hon. Friend has moved on to 2012, but prior to that the Finance Act 2008, specifically section 58, was changed retrospectively to frustrate a tax planning scheme. This affected many constituents across the country, including some of my own, very badly.

Philip Davies: My hon. Friend is absolutely right. Examples of retrospective legislation are quite interesting. The reason I chose the examples I mentioned—my hon. Friend, as ever, is on the ball and threw another one into the melting pot, although I would put it in a slightly different category—is that in effect they were trying to correct things back to what should always have been the case. I think that, in many respects, that was much more of an outrage than the example given by my hon. Friend. The Acts that I have cited were, in effect, tidying up the law so that it was as it always

[Philip Davies]

should have been. My hon. Friend the Member for Christchurch was on to something when he said that that should always have been the case. A mistake was made in the first place and needs to be corrected, and we need to go back to the beginning in order to correct it. I was trying to use examples that would support my hon. Friend's case, and I felt that the ones that I used did that. My hon. Friend was right to give the example that he gave as well.

1.30 pm

There are other examples of retrospective legislation, but I shall not bore the House by going through all of them, because there are quite a few. However, when the Government last responded to the Bill they asked us to look at the European convention on human rights, and I happened to see the rules against retrospectivity in article 7. I am sure that, as a former member of the Council of Europe, my hon. Friend the Member for Christchurch is an expert on this; he will certainly know more about it than me.

Article 7 states:

"No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed… This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations."

We are also told:

"That criminal laws cannot have retrospective effect, has been a longstanding rule of English law: someone can only be guilty of crime if he commits an act which the law expressly, and certainly, forbids at the time he does it. Where, for example, the trial judge held that certain penal provisions of the Immigration Act 1971 had retrospective effect, the conviction was quashed. The European Convention on Human Rights, prohibits not only the legislative creation of offences which are retrospective, but also the retroactive application of common law offences in order to cover conduct which would not previously have been regarded as a crime."

Although I entirely share my hon. Friend's view, I think we are in danger of—

Mr Deputy Speaker (Mr Lindsay Hoyle): Order. We are also in danger of talking about criminal law. I know that the hon. Gentleman is very good on the detail of the Bill, and wants to return to it.

Philip Davies: You are exactly right, Mr Deputy Speaker. I was sidetracking myself. Let me return to the principle of retrospective legislation.

The Alan Turing (Statutory Pardon) Bill is, in many respects, from the same stable as this Bill. During its very short and sweet Third Reading in the House of Lords, the great Lord Tebbit made a pertinent point. He said that he had "no intention of obstructing" its progress, but added:

"As it continues on its journey towards the statute book, though, there is something that should be said. As we know, Mr Turing committed, and was convicted of, an act that would not be a crime today. So have many others, and many other crimes have been committed similarly. I hope that the Bill will not be used as a precedent. Even more, I hope that we will never seek to extend the logic of the Bill to posthumously convict men of crimes for acts that were not criminal when they were committed, but would be if they were committed today. There is a dangerous precedent within this Bill."—[*Official Report, House of Lords,* 30 October 2013; Vol. 748, c. 1584.]

I think that the warning given by Lord Tebbit then is very relevant to the Bill that we are discussing today, and that is the particular issue that I have with it.

Mr Chope: Both the quotation used by my hon. Friend that caused you to intervene, Mr Deputy Speaker, and the quotation that he has just used relate to criminal retrospection. Does he accept that the Bill is not about criminal retrospection?

Philip Davies: I do accept that.

Mr Deputy Speaker (Mr Lindsay Hoyle): Order. I hope you are not going to enter into a debate on this.

Philip Davies: No, I am not going to defy your ruling in any way, Mr Deputy Speaker; I would never do that, as you well know.

Mr Deputy Speaker: Order. Mr Chope will always try to lead you off your objective, and we do not want him to do that.

Philip Davies: I suspect that you are right about my hon. Friend the Member for Christchurch, Mr Deputy Speaker; he has been leading me astray for many years now.

The serious and relevant point that I want to make is that the principles in many respects remain the same. I accept that there is the difference in terms of the criminal law that my hon. Friend outlines—and that you outline, Mr Deputy Speaker. The point I was trying to make—perhaps in a ham-fisted way—is that the principles are similar in terms of retrospective legislation and whether we should go down that route.

In conclusion, I support the Bill and am all for changing the law on this, and I still maintain today that this law that my hon. Friend the Member for Salisbury is rightly dealing with should never have been the law; it was an absolute outrage that it ever was the law of the land, and I am all for changing it. But I am concerned that there might be, not necessarily unintended consequences, but unintended precedents set by trying to change it retrospectively.

Sir Greg Knight: Does my hon. Friend agree that the essence here is that we should not be seeking to pass provisions that are retrospective unless there is a compelling reason to do so, and where our hon. Friend the Member for Christchurch (Mr Chope) has failed is in explaining what is compelling about his amendment?

Philip Davies: My right hon. Friend sums it up perfectly. There are two ways of looking at this. One of them is the way he looks at it, which is that we should not pass retrospective legislation unless there is a compelling reason to do so. My hon. Friend the Member for Christchurch appears to be taking the view that we should not pass it unless there is a good reason not to. We seem to be on opposite sides of the coin, and I am with my right hon. Friend on this: unless there is a cast-iron reason why we should pass retrospective legislation, we should avoid doing so in case it sets some dangerous

precedents further down the line, and my hon. Friend has clearly not met that test. Therefore, even though I have absolute sympathy with what he is trying to do and agree with the sentiment behind his amendment, I urge Members to resist it on this occasion and leave the Bill as it is.

John Glen (Salisbury) (Con): I am sincerely grateful to my hon. Friend the Member for Christchurch (Mr Chope) for tabling this amendment; I understand his honourable intentions behind it, and I have carefully reflected on it over recent weeks. My hon. Friend has put his case well, and I acknowledge the attraction of the logic, which says, "If we think this should not be on the statute book now, do we think it should never really have been there in the first place?"

I also acknowledge the deep injustice that an individual would feel in being dismissed under provisions that are later superseded. That injustice has been tackled in the other cases of legislation penalising homosexual activity, for example in the Turing clause in the Policing and Crime Act 2017, which allowed for the pardon of those convicted of sexual acts that are no longer illegal.

There may be a place for providing some level of redress or apology to those who were dismissed from the merchant navy on grounds of homosexual conduct, but that cannot be provided for in this Bill. That is because a system of redress would need to be carefully designed and calibrated, in a similar way to the Turing provisions, to ensure that acts that are still cause for dismissal were not eligible for apology or compensation. Sadly, the capacity for the scrutiny that such legislation would require does not exist within the tight timings involved in the private Member's Bill system.

However, in the absence of a full system for investigation and redress, a retrospective repeal creates unnecessary legal ambiguity over dismissals that would clearly have been legal at the time without creating a clear opportunity for redress or apology. As I have said, the aim of this Bill has always been to create clarity and certainty going forward, and that aim would be frustrated if we were to create an ambiguity about the legality of some possible dismissals until the provisions were legally superseded by the Equality Act 2010.

I also have a deeper concern, however. As has been discussed, the House has generally been extremely cautious about any form of retrospective legislation, and particularly so in the case of legislation that creates an offence or penalty where none existed at the time—something that is deeply inconsistent with the rule of law. As I have said, my hon. Friend's amendment could retrospectively render the actions of merchant navy employers illegal.

Retrospective legislation has occasionally been used, very sparingly, to validate or authorise retrospectively actions that were illegal at the time. The motivation for including sections 146(4) and 147(3)—which would be repealed by my Bill—in the Criminal Justice and Public Order Act 1994 was to enable merchant navy employers to dismiss seafarers for homosexual conduct even though the 1994 Act decriminalised such conduct. We need to remember that the relevant sections apply to employers and not to seafarers. The amendment proposed by my hon. Friend the Member for Christchurch does not authorise conduct found to have been illegal at the time, and therefore does not fit with recent precedents of retrospective legislation.

My hon. Friend the Member for Christchurch has discussed with me privately the one rare possible precedent in which criminal liability was created retrospectively, through the War Crimes Act 1991. With respect to him, I have looked into the matter carefully and found that that Act allowed domestic criminal proceedings to be brought against British citizens who had committed war crimes in Germany during world war two. That was because there was no provision for the extradition of British citizens to face international law proceedings. The Act was a response to a practical problem of the operation of international law, where an offence already existed. I do not believe that my hon. Friend's amendment falls into that category. I respect the fact that he did not mention it this afternoon, and I want to express my respect for his having a conversation with me on the matter. I contend that the amendment is not covered by that precedent.

I have two more practical concerns. The first is that the other place has perhaps even more discomfort with retrospective legislation than does this House. That was demonstrated during the passage of the War Crimes Act 1991, which the then Government had to use the Parliament Act to enact. I worry that, if the amendment were carried, the Bill would be amended again in the Lords and then lost altogether, as there would be no days available for ping-pong.

My second point is that, during the passage of the Bill I have enjoyed the warm support of the Government. The Department for Transport has kindly provided the explanatory notes to the Bill. I understand that the Government do not sponsor any retrospective legislation unless a lengthy procedure is undertaken to examine all possible effects. I have been told that they will undertake no such procedure in this case. I fear that the Bill could be lost without the support of the Government.

I should like to thank my hon. Friend the Member for Christchurch for tabling his amendment and for the serious scrutiny that he has undertaken of this Bill and others. I should like to express my sincere respect for his intentions in doing so, but I also appeal to him to withdraw his amendment so that we can pass a Bill that provides legal clarity and certainty in the place of ambiguity.

Andy McDonald (Middlesbrough) (Lab): Let me begin by briefly addressing the amendment to clause 2 of the Bill made in Committee, which we supported there. It is right that the Bill should come into force immediately on receiving Royal Assent, rather than at the end of two months. The sooner this change to the law is made, the better. In that spirit, let me move straight to the amendment tabled by the hon. Member for Christchurch (Mr Chope). Labour appreciates that the amendment is well intentioned. We also acknowledge that it is, in principle, certainly right to seek redress for any members of the merchant navy who were dismissed on the ground of homosexual conduct between the passing of the Criminal Justice and Public Order Act 1994 and the Equality Act 2010. None the less, retrospective legislation is set into law only in rare and exceptional circumstances, and we do not believe, on this occasion, that voting for this amendment to the Bill would be appropriate.

My hon. Friend the brilliant Member for Cambridge (Daniel Zeichner) pointed out in Committee that, as the provisions to be repealed are now legally null and void,

[Andy McDonald]

this Bill is a simple, symbolic gesture that will tidy up existing legislation. Accordingly, the Bill does not aim to provide redress for those members of the merchant navy affected by the provisions to be repealed, so the amendment tabled by the hon. Gentleman does not fit with the purpose of the Bill. Labour will therefore not be supporting the amendment today.

The Minister of State, Department for Transport (Mr John Hayes): Seneca the Younger said:

"If one does not know to which port one is sailing, no wind is favourable."

It is certainly true that my hon. Friend the Member for Salisbury (John Glen) knew exactly to which port he was sailing when he introduced this Bill, and I congratulate him on his hard work and persistence. It is an important measure that puts right a wrong. I also thank my hon. Friend the Member for Christchurch (Mr Chope) for his thought and diligence. As the hon. Member for Middlesbrough (Andy McDonald) said and for the reasons set out in the thoughtful contribution of my hon. Friend the Member for Salisbury, it is understandable that we should wish that this Bill had been introduced earlier than it has been.

1.45 pm

Nevertheless, rather like the hon. Member for Middlesbrough, the Government cannot support the amendment of my hon. Friend the Member for Christchurch, which would have the effect of making the current law retrospective. Hon. and right hon. Members will know that that the Government rarely do that, and the House is also rightly hesitant to do it. It is important for the accessibility and stability of the laws of this country that, unless there are very good reasons for doing otherwise, what is the law at a given time cannot be legislatively revisited later. People should be able to settle their affairs in the certain knowledge of what the law is. That is an important principle of such significance that, as I say, the Government do not depart from it unless there are very good reasons for doing so. With the greatest respect to my hon. Friend the Member for Christchurch, I am not convinced that those very good reasons prevail on this occasion.

It is important to appreciate what this Bill does. It does not deal with criminal offences, because the subsections of the Criminal Justice and Public Order Act 1994 that the Bill seeks to amend refer solely to employment rights. The Bill does not remove from employers any right to dismiss seafarers, for the ability to dismiss people because of their sexuality has been illegal in the United Kingdom since 2003. For the same reason, it does not create any new rights for employees. The subsections we are dealing with today have been entirely superseded by new law, and they remain a dead letter. They are a reminder of a very different time. Now, as my hon. Friend the Member for Salisbury has made clear and as I have said previously, there are good reasons for removing such dead letters from the statute book, and I am clear that there are good reasons for doing so now, but we cannot do that retrospectively. I cannot see how it would benefit anyone to make the retrospective amendment and, given that, I think that the general position that this House does not pass retrospective legislation should stand.

I am strengthened in that view by this final, short point. Between 1994, when the Criminal Justice and Public Order Act came into existence, and 2003, when the Employment Equality (Sexual Orientation) Regulations came into force, it is possible that some number of people were dismissed from ships because of their sexuality. They may have taken legal advice at the time and may have been told—sadly, but entirely properly—that there was nothing that could be done about that. Making the Bill retrospective would not change that answer, however sad that is, for the reasons that I have explained, but I would rather save those people from thinking otherwise and from having to take legal advice all over again only to be frustrated. While appreciating the reasons why my hon. Friend the Member for Christchurch suggested the change in his amendment, the Government cannot support it, and I ask him to withdraw his amendment, as my hon. Friend the Member for Salisbury has already done.

I will finish with this. It has been said that

"A sailor is not defined as much by how many seas he has sailed than by how many storms he has overcome."

Let us hope that some sailors will encounter fewer storms in life's seas as a result of what my hon. Friend the Member for Salisbury has brought to the House's attention.

Mr Chope: We have had an excellent, high-quality debate on this issue, and I have listened carefully to the points that have been made. I am indebted to my hon. Friend the Member for Salisbury (John Glen) for having considered the amendment so seriously. He went to a lot of effort, and we have been in discussions about it. I heard what my hon. Friend the Member for Shipley (Philip Davies) said and noted his public torment about whether to support the amendment. Ultimately, I am persuaded by my hon. Friend the Member for Salisbury and by the Minister that if we make the measure retrospective, it might cause uncertainty for those people—we know who they are—who were dismissed from the merchant navy between 1994 and the time when such grounds for dismissal became unlawful under other legislation. I would not want to achieve that objective, which would be an unintended consequence.

I am with all those hon. and right hon. Members who deplore retrospective legislation, and this debate has been useful in securing from the Government and others a reaffirmation of our disgust and our rejection of the principle of retrospective legislation, even to the extent that we will not make symbolic legislation retrospective. This has been a useful exercise.

I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Third Reading

1.51 pm

John Glen: I beg to move, That the Bill be now read the Third time.

I will not detain the House for long. I am grateful to have reached this point, and I wish the Bill Godspeed as it is sent to the other place. As hon. Members have noted throughout its passage, the Bill is short and simple. However, what it symbolises and the lasting impact it will have are about more than the repeal of

sections 146(4) and 147(3) of the Criminal Justice and Public Order Act 1994. The Bill sends the important message that, when it comes to employment in this country, what matters is a person's ability to do the job, not their gender, age, ethnicity, religion or sexuality. By passing the Bill we make a clear statement that employment discrimination on the basis of sexual orientation has no place in our country. We should not underestimate the importance of that statement.

Looking back at the Bill's previous stages, I am sure that hon. Members will recall the powerful speech made on Second Reading by my hon. Friend the Member for Milton Keynes South (Iain Stewart) and his moving remarks on how legislation previously left him feeling unable to pursue the career of his choice. We want to send a clear message to younger generations, and to anyone who might have been confused upon reading the 1994 Act, that sexual orientation is not a basis for employment discrimination in the merchant navy or anywhere else.

I am pleased that the Bill is supported by hon. Members on both sides of the House, and that they have noted the important reassurance and clarity that it provides. I thank hon. Members who served on the Public Bill Committee, particularly my hon. Friend the Member for Corby (Tom Pursglove) for his helpful input on an amendment. The Bill will now come into force on the day it becomes law, further reinforcing the House's commitment to the principles on which the Bill stands. I also thank my right hon. Friend the Minister for his support throughout the Bill's passage.

Finally, it only remains for me to wish the Bill safe passage as it now goes to the other place, which I hope will share the conviction of this House that employment discrimination on the basis of sexual orientation is wrong and that it is time for the entirety of our statute book fully to reflect that reality.

1.53 pm

Philip Davies: I congratulate my hon. Friend the Member for Salisbury (John Glen) on this Bill. He is one of the most diligent people in the House, and he is also one of the nicest. It is a pleasure to be here to support his Bill, for which I reiterate my support and note that it has support from both sides of the House.

Although the Bill is, in effect, a tidying-up exercise that will not make a lot of practical difference, it is right that we only have laws on the statute book that are enforceable and justifiable, and what the Bill seeks to clear away from the statute book is unjustifiable.

As I said on Second Reading, this Bill is about dealing with things that should never have been illegal in the first place. When we talk about things such as gay rights the tone can sometimes be as though we are doing people a favour, but it is nothing to do with that, as these things should never have been illegal in the first place; it is about making it clear that some things that are on the statute book were wrong and we have to make a point of removing them. It is certainly not about doing anyone any favours and we should not make it sound as though it is.

Clearly, the sections the Bill addresses have been superseded by other legislation, specifically the Equality Act 2010. Interestingly, the Bill should never have been needed, because this matter should have been dealt with in its entirety when the 2010 Act was introduced. I asked the House of Commons Library whether it would have been possible to deal with the matter then and was told that it would have been within the Equality Bill's scope. Such an omission has meant that we needed to produce an entirely new Bill simply to correct the position. In many respects, that is unfortunate, but I am delighted that my hon. Friend has taken the opportunity to correct it.

Rightly, this Bill has received proper scrutiny, on Second Reading, in Committee and again on Report today. This is a small Bill, but that does not mean it should not get the same scrutiny that big Bills do. I am grateful that we have had the opportunity to give the Bill proper scrutiny, because it should never be easy to get legislation through Parliament. My hon. Friend has approached the Bill in exactly the right way and spirit, taking on board people's comments and looking into them all diligently. I commend him on doing that, as this has been a model of how people should take a private Member's Bill through Parliament. I am very pleased to be able to support him today, and I hope the nature of the Bill means it will sail through the House of Lords quickly, too.

1.56 pm

Andy McDonald: I will keep my comments brief, as the point I wish to make is straightforward and does not require a lengthy speech. Labour Members wholeheartedly support this Bill and what it represents, and I congratulate the hon. Member for Salisbury (John Glen) on introducing it. By doing so, he has focused our attention on anachronistic and unfair provisions from the Criminal Justice and Public Order Act 1994, which suggest that it would be lawful to dismiss a seafarer for a homosexual act. This Bill would remove ambiguities surrounding whether it is legal to dismiss a seafarer on the basis of such an act, but, as has been pointed out, the discriminatory provisions targeted by the Bill have been superseded by current equality legislation, primarily the 2010 Act.

The Bill is therefore, ultimately, symbolic, but importantly so, as we should not underestimate the importance and power of symbols. We believe that this Bill, which would amend legislation to better reflect the values of equal rights to which we now adhere, is a powerful symbol, and Labour Members are pleased to give it our support.

1.58 pm

Mr Hayes: Nothing I say will either better the persuasive advocacy of my hon. Friend the Member for Salisbury (John Glen) or add to the straightforward certainty about this Bill's virtues. Quite simply, it speaks for itself.

Question put and agreed to.

Bill accordingly read the Third time and passed.

Guardianship (Missing Persons) Bill

Consideration of Bill, not amended in the Public Bill Committee

Clause 1

MISSING PERSONS

1.58 pm

Philip Davies (Shipley) (Con): I beg to move amendment 1, page 1, line 19, leave out subsection (4):

Mr Deputy Speaker (Mr Lindsay Hoyle): With this it will be convenient to discuss the following:

Amendment 2, in clause 2, page 2, line 17, at end insert—

'(2A) Before hearing an application for a guardianship order the court may require the applicant to take such further steps by way of advertisement or otherwise as the court thinks proper for the purpose of tracing the missing person.".

Amendment 3, in clause 3, page 2, line 27, leave out "90 days"' and insert "6 months".

Amendment 4, in clause 7, page 5, line 18, leave out "4 years" and insert "2 years".

Philip Davies: Let me set out from the start that these are probing amendments and I do not intend to push any of them to a Division. By anyone's admission, this is quite a meaty Bill, running to 25 clauses, but we have had no scrutiny of it in the Chamber. It received its Second Reading on the nod, without any debate whatsoever, and here we are, with time pressing on, and we have had no opportunity before now to debate any of its provisions. I therefore tabled some probing amendments to tease out from my hon. Friend the Member for Thirsk and Malton (Kevin Hollinrake) why some of the Bill's provisions—the timescales, for example—are as they are.

Amendment 1 would remove subsection (4), which states:

"A person who is detained, whether in a prison or another place, is to be treated for the purposes of this Act as absent from his or her usual place of residence and usual day-to-day activities."

I want to tease out from my hon. Friend the reasoning behind the subsection, because there was no scrutiny of it on Second Reading.

In passing, I should say that we are discussing the Guardianship (Missing Persons) Bill, and a Missing Persons Guardianship Bill is going through the House of Lords. I am not sure whether that Bill's provisions are different from this Bill's, but perhaps Members in the other place are trying to achieve the same thing.

In 2014, the Government held a consultation entitled "Guardianship of the property and affairs of missing persons" in which, as far as I could see, the issue addressed by subsection (4) was not mentioned once. Furthermore, I checked the reasoning behind the inclusion of the subsection with the House of Commons Library, but the staff there confirmed that they had not been able to find out anything about its background. They could not explain why it was in the Bill, beyond its inclusion as an example.

After speaking to Library staff at further length, they said:

"The Bill defines a missing person as someone who is absent from their usual place of residence or their usual day-to-day activities. The reason for being absent may be because the person is detained. However, in addition, as in other cases, the first or second condition set out in subsections (2) or (3) must also be met. In most cases, the first condition is likely to be relevant—that is, that the person's whereabouts are not known, or not known with sufficient precision to enable contact to be made."

That was the Library's explanation of why the subsection might be in the Bill but, given that the staff there were not entirely clear about it, I thought it important to table an amendment so that we could hear my hon. Friend explain it at first hand. That is why I see it as a probing amendment.

Amendment 2 would insert into clause 2:

"Before hearing an application for a guardianship order the court may require the applicant to take such further steps by way of advertisement or otherwise as the court thinks proper for the purpose of tracing the missing person."

That would ensure that all reasonable steps had been taken to try to locate the missing person.

Sir Greg Knight (East Yorkshire) (Con): On reflection, does my hon. Friend agree that the court probably has that power anyway? Someone seeking to obtain an order must surely have to show the court that they have taken all reasonable steps to discover where the missing person is..

Philip Davies: I very much hope that my hon. Friend the Member for Thirsk and Malton will be able to confirm that, which is why I described the amendment as a probing one. I want it to be clear, on the record, that that is the case, because it was not entirely clear from looking through the Bill. I hope that my right hon. Friend the Member for East Yorkshire (Sir Greg Knight) is right—I am sure he is—but, as I said, it is a probing amendment so that we can get it confirmed on the record.

Rebecca Pow (Taunton Deane) (Con): My hon. Friend is making a valid point, but as far as I understand it good systems are already in place to determine whether a person is missing and all that side of it. There is, however, no system for looking after their estate or anything that they own if they are declared missing. The Bill is about helping the people left at home to deal with the property or the estate, or, indeed, to deal with the hardship that they might be facing because they cannot access funds or money, or get into the house and all those sorts of things. It therefore seems eminently straightforward and sensible.

Philip Davies: My hon. Friend is right. She is referring to the principle of the Bill, which I absolutely support. I do not intend to do anything to stop the Bill proceeding—that is not the point. The point I am making is that we are looking at the detail, and I want to ensure that we get it right. All hon. Members support the principle of the Bill. I do not want to scupper or affect the principle—she and I are as one on that. The purpose of the amendments is to ensure that we are happy that the details are right, because it is quite a chunky piece of legislation that deserves such scrutiny.

Amendment 2 is based on a requirement in the Leasehold Reform, Housing and Urban Development Act 1993—I do not know whether I need to refer hon. Members to my registered interest as a landlord, but I have now done so—section 26 of which addresses applications when the relevant landlord cannot be found.

Similar legislation elsewhere in the world contains similar requirements before a guardian can be appointed, including in three Australian states—New South Wales, Victoria and the Australian Capital Territory—which set out a process under which an individual can seek to be appointed to manage the affairs of a person who is missing. There is a similar provision in Canadian law. That is the purpose behind the amendment. I want to ensure that we are happy that we have the detail right.

As hon. Members can see, amendment 3 would increase the amount of time from 90 days to six months for which an individual must be missing before a guardian can be appointed. This was specifically designed as a probing amendment, because it was the only way I could think of to tease out from my hon. Friend the Member for Thirsk and Malton why he set 90 days as the limit. The only way I could think of doing that was to propose an alternative. My alternative is six months, and I wonder whether 90 days is too short a time.

Kevin Hollinrake (Thirsk and Malton) (Con): I am grateful for my hon. Friend's scrutiny of this important legislation. He mentioned other territories around the world that use such legislation—New South Wales, Victoria and British Colombia—all of which use that 90-day period. It is therefore a sensible starting point.

Philip Davies: I have read the consultation, to which there were 40 responses, of which eight commented on the proposal that applications should be made only after 90 days. Some of the responses said that 90 days was too long—I accept that—but practical points on timing were made, including by the Finance and Leasing Association, which had concerns about the 90 days. The consultation response therefore states:

"We accept that the 90 day period may create problems in some cases, but are also conscious that over-hasty applications may result in unnecessary expenses being incurred."

The period is 90 days and not 60 or 100, so I am seeking the rationale for 90 days. My hon. Friend was helpful in his intervention and has made it clear why he has gone for 90 days, and I am grateful to him for that.

As hon. Members can see, amendment 4 would reduce the maximum period of guardianship from four years to two years. Clause 7 sets out the period of guardianship and requests that the period for which the guardian is appointed be stated in the court order. The maximum possible is four years, and I propose to halve it. Again, I am trying to tease out from my hon. Friend why he believes four years is right, and why the period should not be longer or shorter. I can see the attractions of making it longer to avoid people having to go back time and again, given the cost of doing that. I was not sure whether the primary purpose was to avoid that or there was another rationale as to why four years was the appropriate time.

Mr Christopher Chope (Christchurch) (Con): My concern arises from the same issue, and it is what happens when a missing person is found. That does not automatically negate the guardianship, as I would have hoped that it would, and is an argument for saying that the guardianship should be for a shorter period. Otherwise, as soon as somebody is found, the guardian will have to apply to the court to end the guardianship before they can again be treated as a normal person.

Philip Davies: My hon. Friend makes a good point. That is why I proposed a shorter period rather than a longer one.

Sir Greg Knight: I think that my hon. Friend has inadvertently misled the House. As I read the Bill, the term of four years is a maximum, and the court has power to make an order for any length of time up to four years.

Philip Davies: Yes, that is right. If I did mislead the House, I certainly did not intend to. I thought I had made it clear that it was a maximum of four years, but if I did not, I apologise to my right hon. Friend and to the House. He is right: it is a maximum, and it does not need to be exactly that. However, that does not necessarily overcome the point made by my hon. Friend the Member for Christchurch (Mr Chope) that a decision for four years could be made in good faith and is then superseded, possibly causing an issue.

Again, I pray in aid the consultation on these matters. It received a range of views on the appropriate duration of guardianship appointments. Two respondents said they agreed with the proposed maximum term of four years, while there were suggestions from four other respondents, including for a shorter period of just one or two years, with one proposal of eight years. Perhaps my hon. Friend the Member for Thirsk and Malton is saying that we should split the difference and go for four years, and that is the consensus—I do not know. As I said, there are examples in other countries. In Victoria and the Australian Capital Territory, the administrator or manager is appointed initially for up to two years, which can be extended for a further two years. I wonder whether that might have been a more sensible way of going about it. It is the same in Irish law, with an initial two years that can be extended for a further two years. That might be better than a straight four years right from the word go.

My amendments are in no way seeking to cause any problems for the Bill; they are simply to give it some scrutiny that up to this point it has not had, as I am sure my hon. Friend will be the first to concede. Legislation does deserve some scrutiny, particularly when it is as meaty as this. I look forward to his and the Minister's response to the issues I have raised and their explanations for some of the details in the Bill.

The Parliamentary Under-Secretary of State for Justice (Mr Sam Gyimah): I am keen for this Bill to progress.

Amendment 1 relates to the definition of when a person is missing for the purposes of the Bill. The amendment would remove clause 1(4), which relates to the absence of the missing person. Without that subsection, it would be unclear whether, for the purposes of the Bill, the person detained in prison or otherwise would be treated as being

"absent from his or her usual place of residence and usual day-to-day activities."

Amendment 2 addresses a different aspect of the question of whether a person is missing for the purposes of the Bill. First, the Bill already provides in clause 20(1) that the application must be advertised in accordance with the rules of the court. The subsection provides that

"notice of the application and any other information specified by rules of court"

must be sent

"to the persons specified by rules of court".

[Mr Sam Gyimah]

Secondly, the procedure for hearing the application will be governed by rules of court. Those rules have not yet been written, but they will specify the information that needs to be provided to the court with the application. That is likely to include a requirement that the application is supported by evidence of the various issues on which the court must be satisfied before it can make a guardianship order in accordance with the Bill.

2.15 pm

Amendment 3 relates to the question of how long a person must be missing before an application can be made for the appointment of a guardian. I appreciate the concern of my hon. Friend the Member for Shipley (Philip Davies) that guardianship orders should not be granted lightly or with undue haste. However, extending the period to six months would be excessive. The question of the length of the period of absence was raised in the Ministry of Justice in 2014 in its consultation on guardianship. The suggestion of 90 days was well supported there. The main alternative suggestion from consultees was that of a shorter period, as my hon. Friend rightly mentioned.

Amendment 4 relates to the length of time for which a guardian can be appointed. It would change the maximum period for the appointment of a guardian from four years to two years. Again, I appreciate my hon. Friend's concern that guardians should not lightly be given an extended period of authority over the property and financial affairs of a missing person. Giving one person authority to deal with the property and affairs is also a very serious step. There is absolutely no reason why the maximum period of appointment—it is the maximum—must be four years. International practice varies: some jurisdictions leave the length of time to the court, but others apply a maximum. The four-year period was well supported in the consultation.

In summary, the four-year period is a maximum, and even when it is applied, it can be cut down if circumstances so require. A two-year maximum could be unduly restrictive and result in unnecessary expense for those affected. In the light of that explanation, I hope that my hon. Friend will withdraw his amendment.

Philip Davies: I am very grateful to the Minister for his explanation. We have not yet heard from my hon. Friend the Member for Thirsk and Malton (Kevin Hollinrake), the promoter of this Bill, on whether he endorsed the Minister's points.

Kevin Hollinrake: I am grateful to my hon. Friend for giving way. The Minister laid out his responses in a very comprehensive fashion. I have nothing significant to add. My hon. Friend the Member for Shipley (Philip Davies) talked about the other Bill in the House of Lords. That Bill would not be required if this Bill passes through this House today. He mentioned removing clause 1(4). This deals with a situation in which somebody is detained as a hostage or something similar. Terry Waite springs to mind, as he was could not be contacted for five years.

Philip Davies: I am very grateful to my hon. Friend for that addition to the Minister's explanation. I absolutely accept the points that have been made. It is important that we had them put on the record, and that we teased out from the Government why they set the rules as they have. I am sure that that will be useful for people to know. Therefore, I am happy to withdraw my amendment.

Amendment, by leave, withdrawn.

Third Reading

2.18 pm

Kevin Hollinrake: I beg to move, That the Bill be now read the Third time.

I thank all hon. Members for their contributions, particularly my hon. Friend the Member for Shipley (Philip Davies) for his detailed scrutiny of this very important Bill, and all the members of the Bill Committee. I very much hope that the Bill will pass swiftly through this House and the House of Lords.

Many times in this House, we get involved in different issues for many different reasons. My reason for being involved in this issue is to do with Mr and Mrs Lawrence, who have a deep connection with my constituency and who are sitting in the Public Gallery today. Their daughter, Claudia, went missing eight years ago this very week in tragic circumstances. There is still no explanation for her disappearance. In addition to the trauma, anxiety and stress of the situation, the Lawrences discovered in those early weeks that they were unable to deal with Claudia's financial affairs because of contract and data protection law.

Michael Tomlinson (Mid Dorset and North Poole) (Con): I congratulate my hon. Friend on safely navigating this important Bill thus far. He cites the example of his constituent. Has he made an assessment of how many of our other constituents across the country may benefit from his excellent piece of legislation?

Kevin Hollinrake: Believe it or not, 370 people go missing every single day in this country. Not all of them will require these provisions, but many will. It is an important piece of legislation, and many people have campaigned to get it on the statute book. That includes, of course, Mr and Mrs Lawrence and the campaigning organisation Missing People, which is keen to have this legislation to support people in similar circumstances.

When I tell people that it is not possible to manage the affairs of a missing person, most of them think that that is an incredible situation. Why is that? I think that they feel that way because in similar situations—for example, if a loved one passes away, or if someone has dementia or mental incapacity—other legislation can help, but that is not true for a missing person. For months or years, it is not possible to deal with the mortgage company, the landlord, utility companies, insurance companies and so on, because they simply cannot speak to anyone about the missing person's affairs. That costs money for the missing person's estate and, more critically, their dependants. Quite often, the missing person will have dependants, who need to be looked after.

I am grateful for the great support from across the House for the Bill, and I am grateful to the Government for their support. I thank our excellent Ministers and the organisation Missing People. I am grateful to my hon. Friends who are in the House today and to my hon. Friends the Members for York Outer (Julian Sturdy)

and for Selby and Ainsty (Nigel Adams) who worked so hard on the legislation before I did. It is very much a team effort. I was in the right place at the right time when it came to taking the legislation forward, and it is a great pleasure to do so.

I have one important thing to add. This is a simple piece of legislation, and it will fill the gap in the existing law. As a testament and tribute to Mr and Mr Lawrence and their endeavours—their hard work and commitment to championing the cause of guardianship, their eternal hope, their endless fight for answers and justice and their commitment to helping others in similar circumstances—I hope that this Bill, if enacted, will always be known as Claudia's law.

2.22 pm

Andy McDonald (Middlesbrough) (Lab): I congratulate the hon. Member for Thirsk and Malton (Kevin Hollinrake) on the work that he has done to bring the Bill before the House. I would like to say a great deal about it, but I will not; I will be quick. The Labour party supports the Bill, which, happily, has resounding cross-party support. It deals with a gap in the law that needs to be addressed. I understand that the charity Missing Persons has been influential in the creation of the Bill and supports it in its current form.

As hon. Members know, as things stand in England and Wales, there is no mechanism for protecting the property and affairs of a missing person, and the Bill will change that. The hon. Member for Thirsk and Malton has said that some 2,500 people could benefit from such a law. Courts will be empowered to appoint a guardian to manage the property and affairs of missing persons and to act on their behalf. Unfortunately, the delay in filling this gap in the law has been too lengthy, and there has been consistent and long-standing cross-party support for the proposed legislation.

Happily, the Bill has wider support among campaigners and other interested parties. We should not frustrate such laws when there is political consensus about the positive case for acting. As I said at the outset, the Opposition support this Bill, and I am glad to have the opportunity, albeit brief, to speak in its favour.

2.24 pm

Mr Gyimah: I congratulate my hon. Friend the Member for Thirsk and Malton (Kevin Hollinrake) on introducing the Bill to create the new legal status of guardian of the property and financial affairs of a missing person and on bringing it so far so quickly. The Government are committed to creating that new legal status and are pleased to support the Bill.

The proposals in the Bill have taken some time to evolve. It goes without saying that the Bill will not create a panacea for all the troubles and anguish caused by a sudden and unexplained disappearance; however, it will provide a clear, practical procedure for those left behind to use to find solutions to the financial problems they face. Putting one person in charge of another person's property and affairs is a very significant step, but guardianship is not unique in that respect.

The Bill has been modelled in part on the provisions for the appointment of deputies in the Mental Capacity Act 2005. The guardian is, for example, to be treated as the agent of the missing person. I hope that businesses and other organisations can therefore relatively quickly adapt their systems to accommodate the new status and deal with guardians confidently.

Mr Chope: The Government have said that they will introduce the secondary legislation that the Bill requires within 12 months—in other words, by 2018. Will my hon. Friend please give that assurance to the House today from the Dispatch Box?

Mr Gyimah: I can assure the House that the Government support the Bill and that we will do everything in our power to introduce those regulations, so that they can come into force as soon as practicable.

Putting one person in charge of another person's property and affairs is a significant step. As I have said, guardianship is not unique in that respect. The character and qualities of guardians will be critical. Guardians can therefore only be appointed by the court and can be held to account for their actions by individuals affected. They will also be subject to supervision by the Office of the Public Guardian. The detail of the supervisory regime will be worked out in secondary legislation and codes of practice, as is the case for deputies.

The key principle that the guardian must observe is that he or she must act in the best interests of the missing person. "Best interests" is defined in the Bill and may be further defined in regulations, but it does not simply mean preserving and protecting—and, where possible, augmenting—the assets of the missing person. That would certainly do some good—as against the return of the missing person—but would do nothing, until the missing person returned, for those left behind. The guardian is therefore able, subject to the tests in the Bill and the terms of the guardianship order, to use the missing person's assets for the benefit of people whom, had he or she not disappeared, the missing person would probably have supported.

I acknowledge the unstinting efforts of the charity Missing People, which, along with its pro bono lawyers, Clifford Chance, has assisted the Ministry of Justice in preparing legislation. The Department is grateful to the charities Prisoners Abroad and Hostage UK, which have contributed to the Bill's development. I thank my hon. Friend the Member for Thirsk and Malton for his hard work in steering the Bill thus far. I am grateful to all the families affected by disappearances who have shared their experiences in public to help to raise awareness of the need for reform and to Peter Lawrence in particular. As my hon. Friend said, in the letter of the law this is called the Guardianship (Missing Persons) Bill, but it will always be known as Claudia's law.

The Bill has been a long time in getting to this stage. The all-party parliamentary group on runaway and missing children and adults called for legislation in 2011, and the then Government undertook in the cross-Government missing children and adults strategy, published that year, to consider whether legislation was required. I am delighted to commend the Bill to the House.

Question put and agreed to.

Bill accordingly read the Third time and passed.

Kew Gardens (Leases) Bill

Consideration of Bill, not amended in Public Bill Committee

Clause 1

POWER TO GRANT A LEASE IN RESPECT OF LAND AT KEW GARDENS

2.29 pm

Mr Christopher Chope (Christchurch) (Con): I beg to move amendment 1, page 1, line 3, leave out from "land" to end of subsection and insert—

"(a) occupied by a dwelling-house for a period up to 99 years, and

(b) not occupied by a dwelling-house for a period up to 50 years."

I should like to speak to my amendments in the few seconds that remain, because it is very important that they should be properly articulated in this House.

2.30 pm

The debate stood adjourned (Standing Order No. 11(2)).

Bill to be further considered on Friday 12 May.

Business without Debate

Mr Deputy Speaker (Mr Lindsay Hoyle): We have come to the end of the time for opposed private Members' Bills this Session. Four private Members' Bills have already been passed this Session by the House of Commons, with another three today. It is not possible to debate any more of today's Bills, which will make progress only if no Member objects to Questions on them being put without debate. There are no remaining sitting Fridays appointed for the consideration of private Members' Bills. Following a recommendation from the Procedure Committee, there is a list on the parliamentary website of any private Members' Bills put down formally for subsequent days. At present, Bills are set down for Friday 12 May, though the House is not expected to be sitting that day. In a moment, the Clerk will read over the titles of the rest of the Bills set down for today. If they are objected to, the Member in charge of the Bill may name Friday 12 May, or any other day of their choice.

CROWN TENANCIES BILL

Consideration of Bill, not amended in Public Bill Committee

Hon. Members: Object.

Bill to be considered on Friday 12 May.

FARRIERS (REGISTRATION) BILL

Bill, not amended in Public Bill Committee, considered.

Bill read the Third time and passed.

ROAD TRAFFIC OFFENDERS (SURRENDER OF DRIVING LICENCES ETC) BILL

Consideration of Bill, not amended in Public Bill Committee

Hon. Members: Object.

Bill to be considered on Friday 12 May.

AWARDS FOR VALOUR (PROTECTION) BILL

Further consideration of Bill, as amended in Public Bill Committee

Hon. Members: Object.

Bill to be further considered on Friday 12 May.

CARBON MONOXIDE POISONING (SAFETY ABROAD) BILL

Motion made, That the Bill be now read a Second time.

Hon. Members: Object.

Bill to be read a Second time on Friday 12 May.

HOUSE OF LORDS (EXCLUSION OF HEREDITARY PEERS) BILL

Motion made, That the Bill be now read a Second time.

Hon. Members: Object.

Bill to be read a Second time on Friday 12 May.

UNSOLICITED MARKETING COMMUNICATIONS (COMPANY DIRECTORS) BILL

Motion made, That the Bill be now read a Second time.

Hon. Members: Object.

Bill to be read a Second time on Friday 12 May.

STATUTORY NUISANCE (AIRCRAFT NOISE) BILL

Motion made, That the Bill be now read a Second time.

Hon. Members: Object.

Bill to be read a Second time on Friday 12 May.

FEEDING PRODUCTS FOR BABIES AND CHILDREN (ADVERTISING AND PROMOTION) BILL

Motion made, That the Bill be now read a Second time.

Hon. Members: Object.

Bill to be read a Second time on Friday 12 May.

WILD ANIMALS IN CIRCUSES (PROHIBITION) BILL

Motion made, That the Bill be now read a Second time.

Hon. Members: Object.

Bill to be read a Second time on Friday 12 May.

ANIMAL FIGHTING (SENTENCING) BILL

Motion made, That the Bill be now read a Second time.

Hon. Members: Object.

Bill to be read a Second time on Friday 12 May.

NATIONAL HEALTH SERVICE BILL

Motion made, That the Bill be now read a Second time.

Hon. Members: Object.

Bill to be read a Second time on Friday 12 May.

ASSET FREEZING (COMPENSATION) BILL [*LORDS*]

Motion made, That the Bill be now read a Second time.

Hon. Members: Object.

Bill to be read a Second time on Friday 12 May.

WORKERS' RIGHTS (MAINTENANCE OF EU STANDARDS) BILL

Motion made, That the Bill be now read a Second time.

Hon. Members: Object.

Bill to be read a Second time on Friday 12 May.

VEHICLE NOISE LIMITS (ENFORCEMENT) BILL

Motion made, That the Bill be now read a Second time.

Hon. Members: Object.

Bill to be read a Second time on Friday 12 May.

FAMILIES WITH CHILDREN AND YOUNG PEOPLE IN DEBT (RESPITE) BILL

Motion made, That the Bill be now read a Second time.

Hon. Members: Object.

Bill to be read a Second time on Friday 12 May.

UNLAWFUL KILLING (RECOVERY OF REMAINS) BILL

Motion made, That the Bill be now read a Second time.

Hon. Members: Object.

Bill to be read a Second time on Friday 12 May.

PROTECTION OF FAMILY HOMES (ENFORCEMENT AND PERMITTED DEVELOPMENT) BILL

Resumption of adjourned debate on Question (25 November), That the Bill be now read a Second time.

Hon. Members: Object.

Debate to be resumed on Friday 12 May.

BUSINESS OF THE HOUSE

Ordered,

That, at the sitting on Wednesday 29 March, notwithstanding the provisions of Standing Order No. 20 (Time for taking private business), the private business set down by the Chairman of Ways and Means may be entered upon at any hour (whether before, at or after 4.00pm) and may then be proceeded with, though opposed, for three hours, after which the Speaker shall interrupt the business.—*(Chris Heaton-Harris.)*

Cochlear Implantation

Motion made, and Question proposed, That this House do now adjourn.—*(Chris Heaton-Harris.)*

2.37 pm

Jim Fitzpatrick (Poplar and Limehouse) (Lab): I am grateful for the opportunity to raise the question of the funding and assessment of cochlear implantation, and I do so as chair of the all-party group on deafness. I am pleased to see the Health Minister in his place; I know he has this issue on his radar.

The starting point is a petition calling for a review of the tests for implants approved by the National Institute for Health and Care Excellence. I have been contacted by my right hon. Friend the Member for Wolverhampton South East (Mr McFadden) and my hon. Friend the Member for Rotherham (Sarah Champion) on behalf of their constituents Lamina Lloyd and Diane Matthews respectively.

Both constituents fall foul of the Bamford-Kowal-Bench test—the BKB test. It is this aspect that concerns them and their MPs, and they want it reviewed and changed. I will come back to that later, as well as to the case of Robert Gee, a constituent of the hon. Member for Daventry (Chris Heaton-Harris), who I am pleased to see in his place on the Treasury Bench. I want to register my appreciation for Action on Hearing Loss, the Action Group for Adult Cochlear Implantation, Professor Chris Raine and the Ear Foundation for their assistance with briefings for this debate.

I shall start with papers sent to me by the Ear Foundation. Sue Archbold writes:

"I was at the World Health Organisation in Geneva for the meeting on World Hearing Day, 3rd March...with WHO for the first time confirming that cochlear implants and hearing aids are cost-effective and should be made more widely available globally".

The WHO has produced two documents: "Global costs of unaddressed hearing loss and cost-effectiveness of interventions" and "Action for hearing loss". I am sure the officials at the Department will have brought them to the Minister's attention.

Professor Chris Raine, who I believe is one of the UK's leading clinicians in this field, emailed me and wrote:

"CIs"—

cochlear implants—

"are funded for health and NICE only look at this aspect. What needs to be addressed is, value for the taxpayer. For example, in education: children with CIs are now going into the mainstream sector which results in a significant saving of education funding of special classes. We have a generation now going through higher education, and this means better employment prospects and more people paying more tax. Adults who go deaf can expect better health outcomes with CIs. Deafness is associated with illness and unemployment. Also, studies in the USA and France have shown improvement and reduction in dementia in the elderly. We are spending £13 billion on dementia."

Professor Raine concludes with the recommendation that

"we need adult hearing screening".

The Ear Foundation has produced a document, "Improving access to cochlear implantation: Change lives and save society money", written by Brian Lamb OBE, Sue Archbold, PhD, and Ciaran O'Neill, PhD. It recommends, for instance,

"That NICE urgently conducts a formal review of its current guidance on cochlear implants",

and that the review

"considers lowering the current audiological threshold for candidacy…That any cost benefit analysis done…ensures…real world benefits are taken into account",

including those relating to social care. It also states:

"A screen for candidacy for cochlear implants should be built into routine audiological appointments."

Action on Hearing Loss writes:

"More adults could benefit from cochlear implantation than are currently doing so. NICE…should review and update its current guidance on cochlear implantation".

It also writes:

"74% of children who could benefit from cochlear implantation aged 0-3 have received them, increasing to 94%, by the time they reach 17 years of age. The comparable figure for adults who have severe or profound hearing loss is only around 5%."

I am sure that the Minister is aware of that.

"Research is also currently underway to see whether the BKB…sentence test… could be excluding adults who could benefit."

The document recommends a review of guidelines, as well as the raising of awareness of cochlear implantation among the public and NHS organisations and professionals.

Brian Lamb also writes, this time on behalf of the Adult Cochlear Implant Action Group:

"Hearing loss is one of the most challenging health and social issues facing the UK...Those with hearing loss have higher rates of unemployment and underemployment."

Hearing loss is associated with the risk of developing dementia:

"Those with severe hearing loss are at five times the risk of developing dementia as those with normal hearing".

I remind the Minister again of the billions that we are spending on dementia.

"In older age people with hearing loss are at greater risk of social isolation and reduced mental well-being".

Yet we have never had better solutions to address hearing loss.

The ACIAG states:

"Hearing aids can make a huge difference to the majority of people, but for those who are severely or profoundly deaf cochlear implantation offers the main way of hearing spoken language again. We now have world-leading technology in cochlear implants to address hearing loss, but many more people could benefit from this transformative technology than currently do."

It also states:

"There are an estimated 100,000 people with a profound hearing loss and 360,000 with a severe hearing loss who might benefit from implantation at any one time. Yet"

—as I said earlier—

"only 5% receive CIs.

The UK currently has one of the most restrictive tests across the whole of Europe...In this country it is not until the hearing loss is over 90 dB that people qualify, while in Europe the majority of clinics use a measure between 75-80 dB.

We also use a word test, the BKB test, which is no longer fit for purpose according to a recent review by experts in the field who concluded, 'use of this measure... alone to assess hearing function has become inappropriate as the assessment is not suitable for use with the diverse range of implant candidates today'.

The guidelines have been in place since 2009 and not reviewed since 2011.

The Action Plan on Hearing Loss, published by DoH"

—the Department of Health—

"and NHS England in 2015, made clear that there should be 'timely access to specialist services when required, including assessment for cochlear implants'."

That action plan was widely welcomed when it was published, and I, along with others, commended the Department, officials and Ministers at the time, but much of it seems to be being ignored by a number of clinical commissioning groups. Indeed, some are following policies that contradict the plan. The ACIAG requests more research on the links between hearing loss and dementia, and mental health issues. In conclusion, it writes:

"The NHS has been a leader on cochlear implant technology and helped transform many people's lives. The NICE guidance was welcome when originally produced in 2009, but we are now falling behind the access available in many developed countries. It is our health and social care services which will pay the cost of not intervening early for those who could benefit."

I wear two hearing aids, primarily because of damage to my ears sustained while I was in the fire service, although I am sure that age has now added to the problem. I am one of the 11 million people in the UK—one in six of the population—who suffer from hearing loss. Despite the annoyance I cause friends and family by asking them to repeat things, the use I make of the House of Commons loop system, and the assistance I seek here from the sound engineers and technicians, who are always very helpful, I still rely on my hearing aids because they work for me, despite sometimes having limitations. However, I have listed the problems for people suffering profound hearing loss, which are much more serious. We can do something about this; we have the technology, and it is not a matter of costs, because it should save money. It should save the NHS and the taxpayer money, as well as allowing profound hearing loss sufferers to live more complete and productive lives.

In conclusion, I return to the emails from the constituents of my colleagues. One of them writes:

"Lamina passes the pure tone threshold for a cochlear implant, but had to take a speech recognition test in what she regarded as a ridiculously false atmosphere of a soundproof booth with very simplistic sentences in an environment totally different from real conversation or the normal outside world. She is, in her own words, too deaf to hear, but not deaf enough for an implant."

Robert Gee, the constituent of the hon. Member for Daventry, writes similarly, but gives more details of what 70 dB actually is. He says:

"Now just to give you some benchmarks: 60 dB equates to the volume of conversation in a restaurant. 70 dB is twice that volume (busy traffic). 80 dB is 4 times that volume (an alarm). And 90 dB is 8 times (factory machinery etc)."

He then refers to the sentence comprehension test:

"A candidate qualifies if they can only hear (with hearing aid fitted) and repeat less than 50% of the sentences which are played over speakers. The problem with this test is that it is conducted in a soundproof booth with the sentences played at 70 dB...double the volume level of standard conversation. This test does not represent reality at all."

I give the last word to Mrs Diane Matthews, who started the petition to ask NICE for a review. She writes:

"I started a petition for NICE to revise their cochlear implant tests after refusal again for a CI in January this year...The tests are in a soundproof room at a sound intensity of 70 dB. Whilst I understand there has to be set parameters, this does not mirror the real world. There should be a test with background noise and the sentences should be comparable with adult conversation...A CI is life-changing and whilst it's not a cure, it's the best option. To know there is something to help and be denied is heart-breaking when you want to work and contribute to society."

I hope that NICE will accept the requests from individual patients, professional clinicians and campaign organisations, and I hope that the Minister in his response can articulate something in the way of support, or at least acceptance and understanding that there is a major issue out there, and obviously write to NICE directly as well.

We have a solution. It is at worst cost-neutral, and in reality offers huge cost benefits both in productivity and economically, and in human wellbeing. I am looking forward to hearing the Minister's response.

2.48 pm

The Parliamentary Under-Secretary of State for Health (David Mowat): I congratulate the hon. Member for Poplar and Limehouse (Jim Fitzpatrick) on securing this debate on such an important subject. Profound hearing loss is a major issue; the points he raised are substantial and I will address them. I also congratulate him on his work on the all-party group on deafness, and on raising awareness. I also want to offer congratulations in respect of the emailed stories that the hon. Gentleman used in his speech, and, in particular, I want to congratulate Diane Matthews on the petition, which also raises awareness of this important matter.

The hon. Gentleman has raised two substantive issues. One relates to NICE and the question of whether the BKB test and the threshold of 90 dB are appropriate, compared with what is used in other parts of the world. It is not for me to instruct NICE on what to do, but I will come back to the question of NICE guidance later. This is a particularly important piece of guidance because it is technical, which means that it is compulsory, unlike some NICE guidance, which is just for consideration. Therefore, it is important that we get this right.

The hon. Gentleman also talked about awareness among commissioners. He mentioned the action plan not being implemented as effectively as perhaps it should be, and I will say more about that as well. In doing so, I have been informed by, among other things, the extremely good paper that the Ear Foundation put out last October on improving access and by a paper written by Brian Lamb of the University of Derby about better assessments for cochlear implants. Both pieces of work were very good, and I would not have read them had I not needed to prepare for this debate. So we have achieved that, at least.

We know that around 700,000 adults in this country have severe or profound deafness, and that 80% are over retirement age. That demographic is increasing, so this issue is increasing, and, as I have said, it is important to get this right. We also know that between 370 and 400 children are born each year with profound deafness. This excellent technology can be a life-changer for children and for adults. The hon. Gentleman told us that, unless we get this right, employability can be affected. He mentioned the tax base, but this is important for all sorts of reasons. People's mental health can be affected, and those with hearing loss are something like five times more likely to contract dementia than the rest of us. That is a sobering statistic. There is also an increased risk of isolation. As he said, all those factors lead to a greater reliance on our NHS and social care

[David Mowat]

systems. That is set out in a number of papers. Indeed, a World Health Organisation paper went into great detail about it.

Let me describe our response to these points and our view on how the system ought to be working. Cochlear implants are commissioned by the specialised commissioning part of the NHS through 17 specialist centres across the country. There is effectively a two-tier approach involved. The clinical commissioning group should do a general assessment to identify the issue, then send the individual for further assessment involving the tests that the hon. Gentleman has described. If appropriate, they go on to get an implant, followed by the necessary rehabilitation and maintenance work.

Roughly speaking, we do between 1,100 and 1,200 of these implants every year in this country. That is split approximately 60:40 between adults and children. Those figures have been fairly static over the past five or six years. The NICE guidance that drives those figures was last done in 2009 and updated in 2011. As the hon. Gentleman said, however, the technology is moving quickly and we need to address the question of whether that guidance is still appropriate. He mentioned the action plan on hearing loss, which we introduced in 2015. It set out in some detail what best practice was and what action the CCGs should be following. They are the first point of contact for prevention, early diagnosis and patient-centred management. There is also a commissioning framework, which came out after the action plan. It set out a requirement for consistency and the removal of the inequalities of access that we have heard about today. It requires "clearly defined referral arrangements" that will provide

"timely access to cochlear devices when required".

Of course, the devil is in the detail, and the words "when required" have led to some of the issues that we are discussing. Following on from that, we are currently working on a joint needs assessment toolkit and a "what works" guidance, with case studies that should help to increase awareness and knowledge of all this among commissioners at CCG level and more generally.

The problem that still exists, and the one we are really debating today, is that, in spite of all that, there is evidence of the technology being under-utilised despite its life-changing characteristics, particularly among the adult population. The hon. Gentleman talked about 5% of adults being able to benefit from the technology. My figure is 7%, but that is not something that we will quibble about. The uptake is much higher among children with profound hearing loss, with 74% of such children under the age of three and 94% of under-17s having an implant. That could lead us to think that commissioners do not always consider the technology as an appropriate solution when a retired or older person has profound hearing loss. In a sense, I suppose that is age discrimination.

As for international comparators, the Ear Foundation paper talked about the US, Germany and Australia as being stronger users of the technology than we are, which is true, but it is not clear that we are behind the field as badly as the paper may imply. I looked at some detailed numbers from across Europe, and we are stronger than Luxembourg, Belgium and others, but it is fair to say that we are probably in the third quartile, at best, so there is room for improvement.

The NICE guidance is the crux of the hon. Gentleman's point and also what the Ear Foundation talked about. The first thing to say is that I do not tell NICE what to do. Politicians do not influence what is a technical, scientific evaluation. However, we understand that the guidance has not been updated since 2011. There have been a series of quite rapid changes to the technology, surgical procedures have improved, and there is more evidence of the technology's cost-effectiveness.

I am pleased to say—the hon. Gentleman did not mention this, but it is a fact and nothing to do with anything that I have done—that NICE is currently reviewing the guidance, and that review is due to be completed in the summer of 2017. NICE will be considering all the new evidence, including the work of the Ear Foundation, the World Health Organisation and, indeed, Brian Lamb's paper. I will also see to it that the issues raised in this debate, in both the hon. Gentleman's remarks and my remarks, go to NICE as part of the process, so that it is under no illusion as to whether Parliament has considered the matter, and so that it knows that we are extremely keen that it comes to the right answer. It is for NICE to decide whether the BKB test is right and whether 75 kHz is the right measure. The good news for this debate is that that process is happening and is due to be completed in the summer.

On GP awareness, the hon. Gentleman mentioned the action plan, and there probably is an issue there. If we look at the figures for children and the figures for adults, we see that there may be a reluctance to commission the technology for older people just because it is not seen as one of the natural things to do if someone has lost their hearing in their 70s or 80s. There is no pressure from the Government for that to happen, and it should not happen. We work with Health Education England and others on GP training and similar matters. We will make sure that the fact that cochlear implants can make such a radical difference to people's lives is emphasised with GPs as part of the process. In any event, when new NICE guidance comes out, particularly the technological guidance, which is compulsory, that is likely to create quite a lot of impetus for getting the knowledge out to the CCGs and specialist centres, and therefore to the people who have to make the decisions.

I finish by thanking the hon. Gentleman again for securing this important debate. I have not discussed deafness in this Chamber since I have been a Minister, so it is good that we have had the opportunity to do so. I hope that he finds my remarks encouraging.

Question put and agreed to.

2.59 pm

House adjourned.

Written Statement

Friday 24 March 2017

WORK AND PENSIONS

State Pension Age: Independent Reports

The Parliamentary Under-Secretary of State for Pensions (Richard Harrington): In order to keep the future state pension sustainable and fair for future generations, the Government introduced a regular and structured method for considering future changes in the state pension age as part of the Pension Act 2014, section 27.

In line with this method, in November 2016 the Government commissioned the Government Actuary to examine two scenarios for specified proportions (32.0% and 33.3%) that reflect the core principle announced in the autumn statement 2013 that people should spend "up to one third" of their adult life drawing a state pension.

The Government also commissioned an independent review of state pension age to look into wider appropriate factors around reviewing the state pension age, led by John Cridland CBE.

Today I will lay both these reports before Parliament, and would like to take this opportunity to record my thanks to the Government Actuary and John Cridland and their respective teams for their contributions.

The Government will now consider both of these reports very carefully and will present their first review of the state pension age to Parliament in May 2017. The review will be forward looking and will not recommend state pension age changes to be made before 2028. Any proposed changes would be brought for parliamentary consideration and would require primary legislation.

[HCWS552]

WRITTEN STATEMENT

Friday 24 March 2017

No proofs can be supplied. Corrections that Members suggest for the Bound Volume should be clearly marked on a copy of the daily Hansard - not telephoned - and *must be received in the Editor's Room, House of Commons,*

not later than
Friday 31 March 2017

STRICT ADHERENCE TO THIS ARRANGEMENT GREATLY FACILITATES THE PROMPT PUBLICATION OF BOUND VOLUMES

Members may obtain excerpts of their speeches from the Official Report (within one month from the date of publication), by aplying to the Editor of the Official Report, House of Commons.

Volume 623
No. 131

Friday
24 March 2017

CONTENTS

Friday 24 March 2017