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HOUSE OF COMMONS
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PARLIAMENTARY DEBATES

(HANSARD)

Tuesday 12 December 2017

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The House met at half-past Eleven o'clock

PRAYERS

[Mr Speaker *in the Chair*]

Oral Answers to Questions

BUSINESS, ENERGY AND INDUSTRIAL STRATEGY

The Secretary of State was asked—

Royal Mail Privatisation

1. **Hugh Gaffney** (Coatbridge, Chryston and Bellshill) (Lab): What assessment he has made of the effect of the privatisation of Royal Mail on employment standards in the postal industry. [902879]

11. **Christian Matheson** (City of Chester) (Lab): What assessment he has made of the effect of the privatisation of Royal Mail on employment standards in the postal industry. [902892]

12. **Afzal Khan** (Manchester, Gorton) (Lab): What assessment he has made of the effect of the privatisation of Royal Mail on employment standards in the postal industry. [902893]

13. **Mohammad Yasin** (Bedford) (Lab): What assessment he has made of the effect of the privatisation of Royal Mail on employment standards in the postal industry. [902894]

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Margot James): Almost all Royal Mail's 142,000 staff are on permanent contracts and earn above the living wage. Employees own 12% of its shares, and it has been a *Times* top-50 employer for women for four consecutive years. The Government will protect workers' rights, ensuring they keep pace with the changing labour market.

Hugh Gaffney: Today is postal workers day, and I am sure the House would like to thank all postal workers in Royal Mail and Parcelforce for the good work they do all year round, six days a week, in all kinds of weather across the UK.

Royal Mail was not for sale. Under this Government and privatisation, its employees face worse pay and conditions and attacks on pensions, along with the threat of more job losses. Will the Minister renationalise Royal Mail?

Margot James: I heartily agree with the hon. Gentleman's celebration of our postal workers today. As he says, they will deliver in all weather to 29 million addresses across the country over the festive season. I cannot agree, however, that renationalisation is the answer. Royal Mail is in negotiations with the Communication Workers Union, and progress has been made following mediation by Professor Lynette Harris. I assure the hon. Gentleman that there would be a great loss to the postal workers, who, let us not forget, own 12%—

Mr Speaker: Order. I am extremely grateful to the Minister, but we have a lot to get through. We need to be much brisker. Sorry.

Christian Matheson: I refer to my entry in the Register of Members' Financial Interests. As postal workers trudge through the snow this morning, they will have a right to be aggrieved at losing their pensions, while Moya Greene gets paid £1.9 million and gets free flights, paid for by Royal Mail, to Canada. Does the Minister accept that?

Margot James: I disagree with the hon. Gentleman. The pension scheme, if left unchanged, would result in virtual bankruptcy for Royal Mail. It would require an injection of £1.3 billion annually, against profitability of approximately £700 million. I think he can do the maths himself.

Afzal Khan: Royal Mail is paying out over £200 million in dividends every year to private shareholders. Last year, the chief executive saw her pay increase by 23%. How can the Government stand by a model of ownership that sees postal workers' pay being frozen and their pensions left unaffordable?

Margot James: I understand that Royal Mail's offer of a pay increase to its workforce is far from frozen. I do not propose to comment much further, however, other than to say that the figures the hon. Gentleman refers to are misleading, because they go way beyond the chief executive's base salary and include performance-related benefits, which are in line with a position of that stature.

Mr Speaker: Order. The Minister may judge that the figures are misleading, but I am sure she would not suggest that the hon. Gentleman would deliberately mislead the House.

Margot James: I certainly would not, Mr Speaker.

Mohammad Yasin: In the privatised Royal Mail, 500 jobs have been lost while, at the same time, it has dished out close to £700 million in dividends to private shareholders. Is this a record of privatisation the Minister is proud of?

Margot James: As I said earlier, Royal Mail contributes £400 million a year to the pension scheme and, since privatisation, has provided access to capital of £1.5 billion and converted losses of £49 million into profits of £700 million. I would say that that was a pretty successful record.

Andrew Bridgen (North West Leicestershire) (Con): Does the Minister agree that, regardless of ownership, Royal Mail needs to continue to modernise and become more efficient, because it operates in an increasingly competitive marketplace?

Margot James: My hon. Friend makes a very good point. When Royal Mail was privatised, Amazon was one of Royal Mail's biggest customers; Amazon is now one of its biggest competitors. So he is absolutely right. More investment in technology and modernisation is required if Royal Mail is to maintain its market position.

Mr Philip Hollobone (Kettering) (Con): The posties in Kettering work extremely hard all year round and do a tremendous job, especially at Christmas. What is the value of the average postal worker's individual stake in Royal Mail?

Margot James: I can confirm to my hon. Friend that the workforce own 12% of Royal Mail, which is a fact that the leadership of the Labour party should consider as it contemplates a round of nationalisation.

John Cryer (Leyton and Wanstead) (Lab): All the evidence is that employment standards in Royal Mail and more widely are being driven down, including with job losses and cuts to pensions. Is the Minister seriously arguing that employment standards today are higher than they were at the point of privatisation?

Margot James: The hon. Gentleman should accept that Royal Mail needs to maintain its position in the marketplace. It already provides employment conditions that are the envy of delivery workers employed by its competitors.

Drew Hendry (Inverness, Nairn, Badenoch and Strathspey) (SNP): Royal Mail employs a significant number of people in the north of Scotland. Protecting those jobs, and the universal service that the workers deliver, is vital, especially given that, according to Citizens Advice Scotland, more than 1 million Scots face surcharges or late delivery, or are refused delivery altogether, when they buy goods online. Will the Minister commit herself to protecting those Royal Mail jobs, and will she confirm that there will be a review of the regulation of parcel delivery prices to support our rural communities?

Margot James: The hon. Gentleman has made a good point. Royal Mail is regulated by Ofcom, which benefits everyone involved in the service. The universal postal service includes a parcel service. Companies must have regard to fairness in setting delivery charges, and any failure to be clear to customers before bookings breaches consumer protection law.

Gill Furniss (Sheffield, Brightside and Hillsborough) (Lab): Today marks postal workers day, when we thank our posties for their hard work and determination in providing a key public service—not that the Conservatives will take any notice. In a privatised Royal Mail, we have seen 12,000 job losses and proposals to slash pensions by 45%. It is a classic case of "one rule for the rich and another for the rest". Royal Mail has paid out £70 million in dividends to private shareholders, and that is only in the last six months. Does the Minister still stand by the Government's decision to privatise Royal Mail?

Margot James: I stand by it 100%. Royal Mail would have had no future had it not been privatised.

Electric and Autonomous Vehicles

2. **Stephen Metcalfe** (South Basildon and East Thurrock) (Con): What recent steps his Department has taken to support the development of electric and autonomous vehicles. [902880]

The Secretary of State for Business, Energy and Industrial Strategy (Greg Clark): Two weeks ago I announced the location for the new national Faraday battery scale-up facility, which will be built in Coventry. On the same day, Jaguar Land Rover announced its intention to produce battery electric vehicles in the west midlands, thus bringing the region to the forefront of modern mobility in the United Kingdom.

Stephen Metcalfe: When it comes to autonomous and electric vehicles, public trust in the exciting technology involved is key to making the most of the opportunities that it presents. What discussions has my right hon. Friend had with industry to combat the Luddites and dispel the mythical fears of that exciting technology that are currently being promoted?

Greg Clark: My hon. Friend has made an excellent point. Part of the programme involves test beds to demonstrate the new technologies. The demonstrations will be open to the public so that they can see for themselves, and they will begin in Milton Keynes, Greenwich, Bristol and Coventry. However, people are already experiencing these technologies through satnav, cruise control and automatic parking, and I hope that increasing exposure will reveal their benefits.

Chris Elmore (Ogmore) (Lab): The Secretary of State mentioned Jaguar Land Rover. As he will know, Ford in Bridgend, which neighbours my constituency and employs hundreds of workers there, is pulling out of the contract early. Has the Secretary of State had any conversations with Ford about the possibility of converging its lines to produce electric batteries for electric cars?

Greg Clark: The hon. Gentleman will be pleased to know that I shall be meeting the head of Ford's European operations immediately after this session to discuss the fact that Ford has based its new development of electric and autonomous vehicles in Britain.

Alan Mak (Havant) (Con): Britain has the potential to be a world leader in developing the new regulatory standards that will govern electric and autonomous vehicles. Will the Secretary of State work with industry, and with other Departments, to ensure that Britain leads the world and that other countries adopt our standards?

Greg Clark: I will indeed. The industrial strategy makes it clear that being at the forefront of the regulatory standards for these new technologies gives us a big advantage. The Automated and Electric Vehicles Bill, which is currently before Parliament, is intended to establish—before most other countries—the right regulatory standards, so that we can make progress with those technologies.

Mr Barry Sheerman (Huddersfield) (Lab/Co-op): The Secretary of State knows that no assessment of the impact of Brexit on the sector has been carried out by

anyone, apart from the RAND Corporation, which told us this morning that this and every other sector will be deeply harmed by Brexit. What does he say in response to that important and thorough investigation?

Greg Clark: I think the hon. Gentleman knows that I have continuous discussions with all the sectors for which I am responsible, including the automotive sector. They lead me to make sure that, as part of our negotiating mandate, we get the best possible deal. The agreement achieved in Brussels last week, including the transitional phase, had been pressed for by the automotive sector in particular.

Industrial Strategy

3. **Mike Amesbury** (Weaver Vale) (Lab): What assessment he has made of the potential effect on productivity of the Government's industrial strategy. [902881]

The Secretary of State for Business, Energy and Industrial Strategy (Greg Clark): We know that the best way to improve our productivity is by investing in research and development, improving the level of skills in our workforce, upgrading our infrastructure, creating an attractive environment for new and growing businesses, and making sure that every place in the country can prosper. That is exactly what the industrial strategy does.

Mike Amesbury: Our productivity growth has been far worse than that of any other G7 country bar Italy. Does the Secretary of State admit that the Government public investment figures in the revised industrial strategy are far below those of leading OECD nations?

Greg Clark: No: if the hon. Gentleman reads the strategy he will see that there is a commitment to the biggest increase in research and development funding, both private and public sector, that we have ever had in this country. It has been the foundation of our success, and I hope the hon. Gentleman will join me in welcoming the progress we are making to be even better at it.

Jo Churchill (Bury St Edmunds) (Con): Productivity in the construction industry is a key requirement of building houses. How will the Secretary of State ensure quality in on and offsite builds for the £1.7 billion investment in construction in the industrial strategy?

Greg Clark: I am glad my hon. Friend mentions that, because the construction sector is one of the areas in which there are big opportunities. It has a sector deal that has been concluded as part of the industrial strategy, and representatives of the sector have said that this represents a major opportunity, especially in offsite manufacture.

Rachel Reeves (Leeds West) (Lab): The Secretary of State has just touched on the sector deals the Government are agreeing with different sectors of the economy. Some of the sectors with the lowest productivity, such as retail, hospitality and social care, do not have a sector deal, yet if we close the productivity gap in those sectors, we will help boost productivity overall compared with our main competitors. What are the Government doing to secure sector deals in those sectors?

Greg Clark: I am delighted to hear the hon. Lady's endorsement of that, and she is absolutely right that there is an opportunity for sector deals for many sectors, including those she mentioned. We are already in discussions with many of those sectors, including the food and drink sector and the hospitality sector; we expect to see early sector deals concluded in them. I am delighted that the hon. Lady supports that.

George Freeman (Mid Norfolk) (Con): I congratulate the Secretary of State on launching the industrial strategy—in particular the life sciences sector deal, which has already triggered £1 billion of new investment. Does he agree that the key now is to negotiate a Brexit deal that avoids a cliff edge but gives us the regulatory freedom to continue to lead in the all-important genomics and data of tomorrow's medicine?

Greg Clark: I do agree with that, and I commend my hon. Friend as the former life sciences Minister who saw before many people the opportunities of the strategic approach. I think he has been honoured this very week by the learned societies for his contribution to promoting science in Parliament, and I congratulate him on that. He is absolutely right that we need to build on these successes. The life sciences sector deal is a demonstration that a long-term strategy can have immediate benefits; we have had more than £1 billion of investment on the basis of the confidence that the sector has in the strategy we have set out.

Chi Onwurah (Newcastle upon Tyne Central) (Lab): With a few notable exceptions, I am sure we would all agree that technology has improved the productivity of this House, but the same is not true for our country: productivity has stagnated since 2010, and we produce 25% less in an hour than the Germans and French, crippling business and making us all poorer. Last week the Chancellor tried to blame disabled workers, but his own Budget fails to invest in science and productivity until 2021. Will the Secretary of State admit that the Chancellor's ideological austerity, meaning we fail to invest in our engines of economic growth, is the real handicap here?

Greg Clark: I do not agree with the hon. Lady, and if she reads the industrial strategy she will see that the biggest increase in science and innovation investment for 40 years has been triggered by this. It is the right way to go, and it has been welcomed by all parties across the country. It would be helpful if the hon. Lady recognised that many other countries have benefited from a strong national commitment to improving investment in productivity, such as through science and innovation, and that gives confidence to overseas investors.

Renewable Energy (Scotland)

4. **Brendan O'Hara** (Argyll and Bute) (SNP): What steps he is taking to support the development of renewable energy sources in Scotland. [902882]

18. **Hannah Bardell** (Livingston) (SNP): What steps he is taking to support the development of renewable energy sources in Scotland. [902899]

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Richard Harrington): Over a third of projects supported by contracts for difference are located in Scotland. In October, we announced plans to allow wind projects on the remote islands of Scotland to compete for support in the next auction. We have submitted a notification of our plans to the European Commission.

Brendan O'Hara: My constituency has much going for it, including an abundance of wind and water, making it an ideal place for all kinds of renewable energy projects. What will the Government do to provide revenue support to renewable energy companies during the innovation period while they work to bring down costs?

Richard Harrington: I am sure that the hon. Gentleman has read the industrial strategy avidly; if he has not, I warmly recommend that he does so, as it covers these matters extensively.

Hannah Bardell: In the EU, we have benefited from funding from the European Investment Bank, which has contributed to the development of renewable energy generation in Scotland, including through a £525 million loan for the Beatrice wind farm project off the Caithness coast. Can the Minister reassure the House that the UK will continue to participate in and have access to the capital provided by the European Investment Bank after Brexit?

Richard Harrington: Like the hon. Lady, I commend what the European Investment Bank has done, but the Government are totally committed to renewables and to our own investment in getting a carbon free environment in the way that has been very successful over the last few years.

Stephen Kerr (Stirling) (Con): Can the Minister confirm that up to £557 million will be made available for less established renewable electricity projects as part of the clean growth strategy, and that projects in Scotland will be able to compete for their share of that fund?

Richard Harrington: My hon. Friend is absolutely right, and that is very much an important part of the industrial strategy.

James Heappey (Wells) (Con): Does my hon. Friend agree that the key is policy certainty, to enable our growing green finance industries to come forward to finance these initiatives themselves, so that the initiatives do not need to rely on Government subsidy?

Richard Harrington: I agree totally with my hon. Friend. I am very impressed by the way in which the finance industry generally is adapting to the clean projects ahead of us.

Mr Alistair Carmichael (Orkney and Shetland) (LD): Support from the Government will be required to get marine renewables such as wave and tidal power to the point of commercialisation. Renewables UK has come up with a proposal for innovation power purchase agreements. What is the Government's view of that?

Richard Harrington: As the right hon. Gentleman will know, we are studying that proposition carefully.

Taylor Review

5. **Stephen Timms** (East Ham) (Lab): When he plans to respond to the Taylor review of modern working practices. [902883]

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Margot James): It is important that this much-needed report gets the consideration it deserves and that we take action where needed. In the industrial strategy, the Secretary of State took responsibility for improving quality of work in the UK and continued an important dialogue on this issue. We will publish our full response shortly.

Stephen Timms: The TUC reports that 3.2 million people are now in insecure work—an increase of more than a quarter over the past five years. Will the Minister accept Matthew Taylor's recommendation, endorsed by the Select Committee, that a longer break in service—a month rather than a week, as at present—should be allowed before there is any loss of employment rights?

Margot James: That will be something that we consult on as we consult on the vast majority of the other proposals in the Taylor review. Taylor acknowledges the excellent track record of employment in terms of new jobs, but as the right hon. Gentleman rightly points out—and the TUC endorses this—there is an issue with insecure work and far too much risk being transferred to the employee.

Mrs Maria Miller (Basingstoke) (Con): The Taylor review says that the same basic principles should apply to all forms of employment in the UK. Does my hon. Friend see paid time off for women attending antenatal appointments as a basic principle, and does she agree that, for health reasons, the law needs to clearly extend that principle to all female workers?

Margot James: I thank my right hon. Friend for her excellent question. We will review the matter that she raises in tandem with the rest of the review of Taylor's recommendations, but she makes a very good point indeed.

Jo Swinson (East Dunbartonshire) (LD): I welcomed last week the Government's latest round of naming and shaming employers that have failed to pay the minimum wage—an area where state enforcement has actually had some success—so I urge the Minister to respond positively to the Taylor review's recommendation that state enforcement of employment rights should be enhanced beyond just the minimum wage.

Margot James: We will consult on the remainder of the recommendations, particularly those relating to employment tribunals and the enforcement of awards that go unpaid.

Theresa Villiers (Chipping Barnet) (Con): Insecure working practices at Uber enable the company to engage in a pricing policy that many of my constituents consider to be predatory and designed to drive out competition.

What more can the Government do to improve working practices at Uber and ensure fairer competition between taxis and private hire vehicles?

Margot James: My right hon. Friend gets to the nub of many of the Taylor review's recommendations. It is important that decent employment standards are maintained and that consumers are offered new opportunities, and we will be reviewing the proposals.

Rebecca Long Bailey (Salford and Eccles) (Lab): Recent reports uncovered the fact that people driving on behalf of Amazon were forced to deliver up to 200 parcels a day while earning less than the minimum wage. With impossible schedules that left little to no time for breaks and no access to paid holidays or sick pay, many drivers experienced conditions that could be described as Dickensian. As yet another high-profile employment case emerges, why are the Government not taking robust action to crack down on bogus self-employment and to enforce employment rights?

Margot James: The hon. Lady puts her finger on precisely why the Prime Minister commissioned the Taylor review in the first place. When employers are indulging in practices such as those the hon. Lady outlines there will definitely be a deleterious effect on employees' health, and they should be roundly condemned.

Rebecca Long Bailey: The Government keep hiding behind their forthcoming response to the Taylor review, but Sir David Metcalf, the Government's director of labour market enforcement, stated this year that even the Government's existing powers have not been used to protect workers, despite numerous official statements that the Government have taken abuse by employers seriously. Only last week, the Government identified 16,000 workers who were paid less than the minimum wage, and yet the Low Pay Commission believes that the true figure is between 300,000 and 580,000. Does the Minister agree with Sir David Metcalf that the Government's enforcement of basic employment rights is wholly inadequate?

Margot James: I await the publication of Sir David's strategy for dealing with labour market enforcement, which we expect to see in the first quarter of next year. I am pleased with his appointment, and he is doing a great job so far of bringing together the enforcement agencies at the Government's disposal to ensure that they work even more effectively in the pursuit of non-compliance with the law.

Carbon Savings

6. **Colin Clark** (Gordon) (Con): What estimate he has made of the potential carbon savings due to result from phasing out the use of unabated coal from electricity generation by 2025. [902885]

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Richard Harrington): We are leading the world by ending unabated coal generation in Great Britain by 2025, and our consultation document published last year set out our estimate that that could guarantee savings of up to 124 million tonnes of carbon dioxide between 2016 and 2030.

Colin Clark: Further exploration of the North sea for oil and gas was given a boost in the Budget. Gas is a lower emitter of greenhouse gases and is a better alternative to coal, so will the Minister focus on oil and gas in particular when developing the industrial strategy?

Richard Harrington: We absolutely will. While the move towards clean growth is clear, the White Paper sets out that oil and gas remain one of the economy's most productive sectors and refers to the intelligent use of its assets and expertise. I thank my hon. Friend for joining me on a visit to Aberdeen; we saw the prospects for the green economy, where sweating the assets is already leading to innovation.

Anna McMorrin (Cardiff North) (Lab): Unlike Wales' ambitious targets for moving towards low carbon generation in onshore wind, the lack of ambition shown by the UK Government is startling. Will the Minister confirm whether Welsh wind projects will be eligible in any future contract for difference pot 1 auction, which he has already confirmed for projects in Scotland?

Richard Harrington: The hon. Lady should be aware that this country is leading the world in the development of green energy.

21. [902902] **David Warburton** (Somerton and Frome) (Con): The good people of Frome are leading the way in moving to a low-carbon economy. We have ambitious plans to be carbon neutral by 2046, when all the energy needed to live, work and travel will be provided by renewable sources. May I invite the Minister, or indeed the Secretary of State, to Frome in sunny Somerset to hear this story first hand and see how these ambitions are being realised?

Richard Harrington: My hon. Friend should be reassured that nothing would please me more than coming to Frome in Somerset to see the work that he has done locally. The clean growth strategy sets out how the UK is leading the world on carbon emissions, and we have set out how the Government will invest more than £2.5 billion in low-carbon innovation between 2015 and 2021.

Mr Speaker: I am sure that Frome will roll out some sort of carpet for the hon. Gentleman.

Sammy Wilson (East Antrim) (DUP): Major banks have lent £630 billion to build new coal-powered stations across the world, many of them in our competitor countries. What assessment has the Minister made of the cost of electricity for the competitiveness of businesses in the UK and does he not recognise that our attempts to save the world while the rest of the world is gaily building power stations fuelled by coal only damage our economy?

Richard Harrington: The hon. Gentleman is probably aware that we commissioned the Helm review of all the different costs of energy. We believe in a mixed use strategy for energy, and he must also understand the employment and economic advantages of the development of alternative energy sources, quite apart from the carbon-free advantages.

16. [902897] **David T. C. Davies** (Monmouth) (Con): Does my hon. Friend agree that, notwithstanding his comments, wind energy requires a subsidy, realignment of the national grid and extra money for back-up sources when the wind is not blowing? Does that not mean that the electricity will be far more expensive than that which is produced by gas or coal?

Richard Harrington: The facts are that the—

Dr Alan Whitehead (Southampton, Test) (Lab): Tell him he is wrong.

Richard Harrington: There is a lot of chuntering from a sedentary position, which I will not take any notice of. I would like to answer the question if Opposition Members will allow me.

My hon. Friend should know that the cost of renewable energy is coming down. The cost of electricity from offshore wind farms, for example, has halved in price since they were first introduced. The Opposition may interpret this to mean that my hon. Friend is wrong. I would say that he is not wrong but he needs further education on this subject, and I will be delighted to meet him at any time to discuss it.

Mr Speaker: What an enticing prospect for the hon. Member for Monmouth.

Small Business Sector

7. **Stephen Hammond** (Wimbledon) (Con): What steps he is taking to support growth in the small business sector. [902886]

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Margot James): Through the industrial strategy we will drive over £20 billion of investment in innovative and high growth businesses. We will increase the national productivity investment fund to £31 billion. We are working to ensure that small and medium-sized enterprises win more public sector contracts to enjoy the benefits of that investment.

Stephen Hammond: My hon. Friend the Minister will know that many local authorities have reliefs, including small business relief, which they could use. Unfortunately, not all local authorities are using them. Will my hon. Friend say what the Government could do to encourage local authorities to use those reliefs so that all small businesses benefit?

Margot James: The Department for Communities and Local Government has issued clear advice to councils that will enable them to calculate the relief that is payable to businesses in the current year. I urge them to pay heed to that advice and implement it. My hon. Friend may be interested to know that Merton council has been allocated £459,000 of business rates discretionary relief in the current year.

Paula Sherriff (Dewsbury) (Lab): Many small businesses are in catering and hospitality, and we of course wish them well, but when we leave a tip for staff we expect it to be paid to them, so when will the Minister publish the report on fair tips so that we can ensure that workers get paid properly?

Margot James: The hon. Lady rightly raises an important issue. Following the commissioning of the work on tipping, we have issued guidance and publicised the issue. What was happening was grossly unfair. I am glad to report that there has been a significant improvement since we commissioned the review.

Julian Sturdy (York Outer) (Con): Unfair trading practices used by big retailers have been identified as a factor in limiting the growth of small and new businesses supplying to the groceries sector. Will the Minister therefore reassure me that the Department will be bringing forward proposals to widen the remit of the Groceries Code Adjudicator in its response to this year's consultation?

Margot James: We will be publishing our response to this year's consultation on the future of the Groceries Code Adjudicator early next year. I have already committed to meeting my hon. Friend to discuss this with the Minister for Agriculture, Fisheries and Food, my hon. Friend Member for Camborne and Redruth (George Eustice), and I look forward to that meeting.

Drew Hendry (Inverness, Nairn, Badenoch and Strathspey) (SNP): Small business growth has been made more difficult due to the decision of the Royal Bank of Scotland to close 269 branches, which has been described as a "hammer blow" by the Federation of Small Businesses policy convenor in Scotland, who says that

"these changes will make it more difficult to run a business in much of Scotland".

Will the Minister commit to working with the bank and her colleagues in the Treasury to ensure that the businesses and communities these branches serve are not left without the banking services they require?

Margot James: The hon. Gentleman raises a crucial point of concern to communities across the country. Although there is limited action the Government can take on how banks run their businesses, we have worked with the Post Office to enable it, through its 11,600 branches nationwide, to run a full complement of services

Bill Esterson (Sefton Central) (Lab): Despite having the fifth biggest economy in the world—soon to be the sixth—the UK is ranked only 48th in the global enterprise league; 48th out of five really takes some doing. But this is not just about the lack of support for start-ups. Among small and medium-sized enterprises business confidence is falling and costs are rising, and, as the Bank of England's figures show, access to finance is still at its lowest level since 2010. Do the Government have any excuse for their woeful failure to support our smallest businesses?

Margot James: The hon. Gentleman really should stop talking small businesses down, and he is absolutely wrong in his estimate. The UK is No. 4 in the world for being the best place to start a business, and the OECD figures show that we score highly on enterprise. He does raise a valid point about growth, and we need to improve our record in supporting small businesses to grow, which is precisely why the Chancellor has made available a vast amount of money in this year's Budget to support the growth of small businesses.[1]

1. *[Official Report, 8 January 2018, Vol. 634, c. 2MC.]*

UK Automotive Sector

8. **Justin Tomlinson** (North Swindon) (Con): What steps he is taking to support the UK automotive sector. [902888]

The Secretary of State for Business, Energy and Industrial Strategy (Greg Clark): The UK's automotive industry is a great British success story and, building on the success of institutes such as the Advanced Propulsion Centre, we have agreed an automotive sector deal to ensure that we continue to reap the benefits from the transition to ultra-low and zero-emission vehicles. Our ambition is to build innovative and competitive supply chains to increase the value of UK content from about a third in 2011 to more than half by 2022.

Justin Tomlinson: What more is the Department doing to encourage further investment in UK car plants, particularly in my constituency with Honda and BMW?

Greg Clark: Both Honda and BMW have been part of the sectoral council that has helped to create institutions that have trained people, and developed research and development; they are a very valued part of the sector deal, which has been so warmly welcomed by the industry.

Mr Adrian Bailey (West Bromwich West) (Lab/Co-op): My constituency contains many small businesses involved in the supply chains for the motor industry. These chains stretch right across Europe and are largely regulated by European Union law. Will the Secretary of State make a commitment that these will not be disrupted by Britain's exit from the EU?

Greg Clark: Given what he said, I hope the hon. Gentleman will welcome the supply chain initiative, which is at the heart of the sector deal to increase the level of UK content. But one way or another the motor industry, like so many others, is based on its good relations, not just across Europe, but around the world, and it is essential that the deal we do allows that to continue and indeed to prosper in the future.

Amanda Milling (Cannock Chase) (Con): The west midlands has a proud heritage in the automotive sector, and I welcome the Government's recent announcements, which will see the region be a global leader in the sector. Does my right hon. Friend agree that supporting innovation and new technologies is key to addressing productivity and creating higher-skilled, well-paid jobs?

Greg Clark: My hon. Friend is absolutely right on that, and the commitment we have made to being the world centre for research in new battery technology, through the Faraday challenge, is already commanding attention right around the world. The investment in skills that accompanies this strategy will make sure that her constituents and others in the region will benefit from the jobs that result.

Richard Burden (Birmingham, Northfield) (Lab): Every day, around £35 million-worth of components are imported to the UK from the EU for "just in time" delivery to plants. Many of those components help to build more than 6,500 cars and nearly 10,000 engines to be re-exported back into the EU. As we saw from the Operation Stack debacle a couple of years ago, it does not take much for disruption at the channel ports to completely clog up the south-east, losing millions and millions of pounds. What guarantee can the Secretary of State give the automotive sector that Brexit will not result in any extra customs checks that will clog up the industry?

Greg Clark: The hon. Gentleman is right to highlight the importance of ensuring that the agreement we reach will be free not only of tariffs but of the types of frictions he describes. It is important for our successful industry, and not just the automotive sector, that that is the deal we conclude. I hope he will welcome the progress that was made towards that deal last week.

Industrial Strategy

9. **Jack Brereton** (Stoke-on-Trent South) (Con): What steps he is taking to develop sector deals as part of the Government's industrial strategy. [902890]

The Secretary of State for Business, Energy and Industrial Strategy (Greg Clark): The industrial strategy White Paper highlighted the emphatic support for sector deals, encouraging any sector to come forward with proposals on how, working in partnership with the Government, that sector can grow and increase its investment, productivity and earning power. A number of sectors have signalled their interest in developing a sector deal, including, as my hon. Friend knows, the ceramics sector.

Jack Brereton: I thank the Secretary of State for that response. Will he please update the House on the progress that has been made in developing a sector deal for ceramics?

Greg Clark: Very good progress is being made with the leaders of the ceramics sector, of which there is a significant cluster in north Staffordshire and Stoke-on-Trent, where Dr Laura Cohen leads the sector. In the months ahead, we hope and expect to be able to conclude a deal with the sector that will capitalise on the enormous opportunity, especially given the new uses of ceramics in, for example, the medical sector.

John Spellar (Warley) (Lab): The Government are not just a funder and a regulator; they are also a customer. Would it help if national and local government acted like they do in every other country and bought vehicles built in this country by British workers, thereby supporting the companies and British workers?

Greg Clark: The most important thing is that we have excellent products here, and I am proud to say that we do in the automotive sector. The right hon. Gentleman will be aware that the Government changed the procurement guidelines to allow the importance of local impact to be taken into account. I hope he welcomes that.

Andrew Bowie (West Aberdeenshire and Kincardine) (Con): Thanks to the actions of this Government, it is widely recognised that the UK now has the most fiscally attractive regime in the world for investment in oil and gas. Does my right hon. Friend agree that a good sector deal would build on that and would mean that the

north-east of Scotland could look forward to a future in which it is not only Europe's energy capital, but the world's?

Greg Clark: I completely agree with my hon. Friend. I had the privilege of leading a trade delegation to India that included many companies from Aberdeen and the north-east of Scotland that are selling their wares and expertise right around the world. That is one of the big opportunities in the deal that is being negotiated.

Peter Kyle (Hove) (Lab): The steel industry met the criteria for a sectoral deal, it wanted one and applied for one, but it did not get one. Will the Secretary of State please explain why?

Greg Clark: The discussions with the steel sector are continuing and I fully expect to conclude an important and ambitious deal for this foundational industry.

Carbon Reduction Targets

10. **Joan Ryan** (Enfield North) (Lab): What recent assessment he has made of the UK's progress towards meeting its carbon reduction targets. [902891]

The Minister for Universities, Science, Research and Innovation (Joseph Johnson): The UK was the first country to introduce legally binding emissions reduction targets through the Climate Change Act 2008. We have made excellent progress towards meeting our targets: we met our first carbon budget and are on track to exceed the second and third.

Joan Ryan: Does the Minister agree that the clean growth plan will not meet the fifth carbon budget on its own? Does he therefore agree that the plan is wholly inadequate and that, as the Committee on Climate Change has said, it should not be the plan?

Joseph Johnson: The clean growth plan has been broadly and warmly welcomed. Low-carbon innovation is at the very heart of our approach to our industrial strategy, with more than £2.5 billion of Government investment from 2015 to 2021.

Several hon. Members *rose—*

Mr Speaker: We have some very shy Government Back-Bench Members at this point, so I call Graham Jones.

Graham P. Jones (Hyndburn) (Lab): The Labour manifesto in the summer committed to 60% of our heat and power being produced from zero-carbon or renewable energies. When will the Government match that ambition from the Opposition?

Joseph Johnson: Our clean growth strategy is rightly ambitious, and the Climate Change Act allows us to be flexible in our means of achieving the goals that we have set out. As I have just said, we are ahead of our targets on the second and third carbon budgets.

Dr Alan Whitehead (Southampton, Test) (Lab): In the recent Budget the Treasury, I assume following consultation with the Minister's Department, pulled the plug on all future support for renewable energy deployment except for the already allocated near-term support for offshore wind. Does the Minister himself support such action, and does it help or hinder the UK's progress towards meeting its carbon reduction targets?

Joseph Johnson: As I have said, our position is that we have met our first carbon target, and we are on track to exceed the second and third. The Government are taking this agenda exceptionally seriously. In fact we are leading the world on it, having legislated with the Climate Change Act and put clean growth at the very heart of this country's industrial strategy.

Industrial Strategy (Wales)

14. **Liz Saville Roberts** (Dwyfor Meirionnydd) (PC): What assessment he has made of the potential effect on Wales of the Government's Industrial Strategy. [902895]

The Secretary of State for Business, Energy and Industrial Strategy (Greg Clark): Our industrial strategy is for the whole United Kingdom. I was pleased to hear from, and work with, people, businesses and institutions in Wales and colleagues in the Welsh Government as we developed the strategy. I have held important discussions with Welsh businesses from a range of sectors, including life sciences, steel and nuclear. Welsh innovators are well placed to benefit from the second wave of the industrial strategy challenge fund.

Liz Saville Roberts: In the past 10 years of successive Westminster Governments, productivity in my county of Gwynedd has fallen by 10%, while productivity in central London has risen by more than 5%. Such regional inequality is evidence that Westminster is not working for Wales. Does the Minister agree that we should be seeking the tools to build our own future?

Greg Clark: The hon. Lady is right in identifying that there are big regional disparities in productivity, and the long-term purpose of the industrial strategy is to work together with our leaders right across the country, with industries, and with universities and colleges to make sure that the drivers of improved productivity are in place. I know that the Government in Wales have participated in and endorsed the approach that we are taking, and I take her endorsement of our direction as further encouragement.

Offshore Wind Industry

15. **Peter Aldous** (Waveney) (Con): What steps he is taking to support the offshore wind industry. [902896]

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Richard Harrington): The UK is the world's largest offshore wind market and will remain so for the foreseeable future. The contracts for difference announced in September will support more offshore wind deployment in the UK than Denmark and the Netherlands have in their last four auctions combined.

Peter Aldous: I am grateful to the Minister for his reply. Offshore wind has been of significant benefit to my constituency, but will he outline the work that the

Government are doing to ensure that UK fabricators, such as Sembmarine SLP in Lowestoft, have every opportunity to participate in this great British success story?

Richard Harrington: I am delighted that companies in Lowestoft, such as Sembmarine, are benefiting from offshore wind projects off the east coast. I met several of them earlier this year, thanks to my hon. Friend's invitation, at the East of England Energy Group event in October. Developers must submit a supply chain plan before entering into a CfD auction.

David Hanson (Delyn) (Lab): The north Wales coast is one of the key offshore wind sectors in the whole world, never mind the United Kingdom. Ministers announced £557 million for renewable energy in the Budget a few weeks ago. How much of that will go towards renewable offshore energy?

Richard Harrington: As the right hon. Gentleman will know, the system of CfD auctions is very efficient in allocating money, and I have every reason to believe that the north Wales coast will be a major beneficiary of it.

Civil Nuclear Police Authority (State Pension Age)

17. **Martin Whitfield** (East Lothian) (Lab): What assessment he has made of the potential merits of serving officers in the Civil Nuclear Police Authority being exempted from the planned increase in the state pension age for public servants in April 2019. [902898]

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Richard Harrington): The pension age for civil nuclear constabulary officers was agreed by Parliament in 2013. I have met both the chief constable and the chair of the Civil Nuclear Police Authority to hear their concerns about the planned increase to the pension age. After listening to their concerns, my officials are preparing an equality impact assessment. Additionally, I have arranged to meet the Civil Nuclear Police Federation early in the new year.

Martin Whitfield: Stuart, a firearms officer in the Civil Nuclear Constabulary who works in Torness in my constituency, asks, like many such officers, why he is any different from the police who protect us from terrorists on the street when he is protecting a cornerstone of our power industry.

Richard Harrington: I have heard the hon. Gentleman's point before. It is a valid one and, as I said, I am looking into it.

Topical Questions

T1. [902903] **Mrs Kemi Badenoch** (Saffron Walden) (Con): If he will make a statement on his departmental responsibilities.

The Secretary of State for Business, Energy and Industrial Strategy (Greg Clark): Since we last met, my ministerial colleagues and I have launched the industrial strategy White Paper, and we can already see it in action. Last week we launched the first sector deal with the life sciences sector, which has attracted significant investment in the UK from companies including MSD and GlaxoSmithKline. We are determined to do even more, and to make the UK the best place to start and grow a business.

Many colleagues from both sides of the House joined us in celebrating Small Business Saturday on 2 December. I congratulate the organisers of that great event, which saw more than three quarters of a billion pounds spent with small businesses.

I attended the global forum on steel excess capacity in Berlin, which agreed actions by all G20 nations to tackle unfair subsidies. Today, colleagues will have noticed that the Minister for Climate Change and Industry is accompanying the Prime Minister to President Macron's One Planet summit in Paris.

Mrs Badenoch: We all know that rapid advances are being made in self-driving cars. Does the Secretary of State agree that now is the time to adapt our regulatory framework to ensure that it is fit for the future?

Greg Clark: My hon. Friend is absolutely right. That is why we have the Automated and Electric Vehicles Bill before Parliament. We are taking a lead in ensuring not only that we invest in research and development, but that we are ahead of the world in having the right regulatory system to support the adoption of this technology.

T4. [902906] **Dr Roberta Blackman-Woods** (City of Durham) (Lab): Recent Government figures show that UK funding from Horizon 2020 dropped significantly last year. Will the Secretary of State tell us what he is going to do to address that alarming fall in funding, and will he commit to participating in Horizon 2020 beyond March 2019 should the UK leave the EU then?

The Minister for Universities, Science, Research and Innovation (Joseph Johnson): UK participation in Horizon 2020 has held up remarkably well since June 2016. We remain one of the strongest performers across the EU system. As the hon. Lady will have seen, last Friday's joint report between the Commission and the UK Government painted a very positive outlook for our continued participation in this valuable programme.

T2. [902904] **Wendy Morton** (Aldridge-Brownhills) (Con): Given the importance of the automotive industry to the UK, and particularly to the west midlands, does the Secretary of State agree that it is essential to invest in test environments for self-driving cars to ensure that the UK can compete with other countries that want to become the world's test bed for new vehicle technologies?

Greg Clark: I agree with my hon. Friend. That is one reason why we have established a series of test beds between London and the west midlands, including the motorsport cluster. They are already attracting huge interest from around the world, reinforcing our reputation in the field.

T5. [902907] **Alan Brown** (Kilmarnock and Loudoun) (SNP): Onshore wind has been Scotland's success story, with the Scottish Government still on track to meet 100% of electricity generation coming from renewables. The UK Government are the possible blocker. As we

approach the point of zero-subsidy onshore developments, will the Government find a way to allow Scottish onshore developments to bid in the next CfD auction?

Greg Clark: The renewables strategy that we have set out has been remarkably successful in bringing down the price of onshore wind and creating jobs, including in Scotland. As the hon. Gentleman knows, I have discussions with the Scottish Government, which have resulted in the remote islands policy that we have adopted. I will continue to have those discussions with his colleagues.

T3. [902905] **Mr Marcus Fysh** (Yeovil) (Con): Does the Minister agree that retaining full sovereign control of our regulation is essential to getting the most out of our economy, 88% of which does not relate to the EU?

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Margot James): Sound regulation is crucial to businesses, workers and consumers. Approximately 1.4 million small and medium-sized enterprises export directly or indirectly to countries in the EU, and they will have a keen interest in the outcome of our trade negotiations.

T7. [902909] **Jim Shannon** (Strangford) (DUP): Northern Ireland has people with very good basic digital skills, but a quarter of business owners in England lack confidence in their basic digital skills. What is the Department doing to provide help for smaller businesses to fill this skills gap on the UK mainland?

Margot James: We are working with the Department for Education, which is investing hugely in lifelong learning, skills and employability. We are prioritising the digital skills capability within that mission, which I am sure will be of great benefit to SMEs.

T6. [902908] **Matt Warman** (Boston and Skegness) (Con): A recent report from Intel identified £2 trillion of global opportunities in artificial intelligence and driverless cars. Will the Minister outline what steps the Government are taking to invest in the skills that Britain will need to capitalise on that huge opportunity?

Greg Clark: I am delighted that my hon. Friend draws attention to this area, and he is a great expert in it. He will know that, in the industrial strategy, we established as one of the four grand challenges leadership in the world in artificial intelligence and the analysis of big data. A crucial part of that is making sure that our young people and people retraining have the skills to take up those jobs.

T8. [902911] **Liz Saville Roberts** (Dwyfor Meirionnydd) (PC): Rumours abound that the Westminster Government are seeking to change the policy on nuclear decommissioning. Will the Minister indicate whether he has any plans to introduce a policy of continuous decommissioning for the UK's ageing nuclear estate, and whether such a policy would apply to Trawsfynydd?

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Richard Harrington): I can assure the hon. Lady that nuclear decommissioning is a very important part of the scenery and will be for many years to come.

T9. [902912] **Mr William Wragg** (Hazel Grove) (Con): What recent discussions has my right hon. Friend had with the Secretary of State for Transport about increased investment in road and rail projects to improve productivity, particularly in the north of England?

Greg Clark: I have regular and fruitful conversations with the Transport Secretary. My hon. Friend will know that, in Greater Manchester, as part of the industrial strategy, there was an investment of a quarter of a billion pounds in improving connections in and around the city. That is on top of the investment in connections across the north of England.

Preet Kaur Gill (Birmingham, Edgbaston) (Lab/Co-op): Given the time that has passed since the promise of an energy price cap, will the Secretary of State confirm that he remains committed to implementing the cap for 17 million households, and will he outline the process by which the Conservative party is expected to introduce it?

Margot James: We have published an important Bill, and we have requested Ofgem to develop proposals as we progress with it. The Business, Energy and Industrial Strategy Committee is scrutinising our draft legislation, which we intend to bring to the House at the earliest opportunity.

Martin Vickers (Cleethorpes) (Con): Last week I was pleased to welcome a delegation from Taiwan to my constituency to meet businesses in the offshore renewables sector, and the delegation regarded the way the sector has developed in the UK as a model. Will the Minister outline what support is available to small and medium-sized businesses involved in the supply chain in this country that want to extend to countries abroad?

Richard Harrington: I can assure my hon. Friend that our industrial strategy, and particularly our discussions on the sector deal, have been very much based on skilling up small businesses with a view to their expanding in this country and exporting.

Gavin Robinson (Belfast East) (DUP): The Secretary of State may know that Unite the union officials from the Belfast Bombardier plant are in Washington and Montreal pressing the case against the egregious US tariff situation. Is the Secretary of State continuing to engage in this process and working towards a sensible resolution?

Greg Clark: I certainly am. As the hon. Gentleman knows, throughout this process we have been absolutely determined to send a clear message to Boeing and to the US Administration that this action is unfair. Its effects on Belfast are intolerable. I will have further conversations later this week to continue to press the case with all the parties concerned.

Lucy Frazer (South East Cambridgeshire) (Con): I recently visited the Cambridge biomedical campus, which brings together academia, business and healthcare. Does the Minister agree that this is important collaboration, which will help boost productivity, improve our economy and create jobs for the future?

Joseph Johnson: Yes, indeed. Cambridge is leading the way in this respect, as in many others. We want to see more collaboration between our universities and the world of business to drive commercialisation and to make the most of the R and D we are investing in.

Sir Edward Davey (Kingston and Surbiton) (LD): It is good news that the Prime Minister is attending President Macron's summit on climate change in Paris today, but may I warn the Secretary of State that President Macron is positioning Paris as the world's leader in green finance? To tackle that threat and to protect London, Ministers must back the Bank of England's taskforce on climate-related financial disclosures and bring in new mandatory corporate requirements on fossil fuel assets.

Greg Clark: Britain leads the world in climate finance, and one of the major contributions the Prime Minister and the Minister for Climate Change and Industry are making is in promoting the availability of green finance in the UK—that includes Edinburgh as well as London. That is getting a very good reception.

Mark Pawsey (Rugby) (Con): The Secretary of State has already spoken about the great news for the west midlands on electric vehicles. He will remember the all-new electric taxi being manufactured at Antsy Park in my constituency, and the taxi was certified for use in London this week. Does he agree that the opportunity for a platform for a delivery vehicle is also very important?

Greg Clark: I do agree with my hon. Friend. I congratulate the London Taxi Company on having the first electric taxi, manufactured in the west midlands, on the streets of London this very week—again, a big vote of confidence in our world-beating motor industry.

Jim McMahon (Oldham West and Royton) (Lab/Co-op): Access to finance is critical for small businesses, but the protection in place when things go wrong is non-existent. Do the Government agree, and will they look at extending the role and remit of the Financial Conduct Authority in that regard?

Margot James: I am meeting the chief executive of the FCA before Christmas, and I will be raising the issue of unregulated small business lending, which the hon. Gentleman mentions.

Craig Tracey (North Warwickshire) (Con): Does the Secretary of State agree that the key to a successful industrial strategy is that it focuses on all areas of the UK, obviously including North Warwickshire and Bedworth?

Greg Clark: I do indeed. One of the features of our industrial strategy, which takes an approach that previous business policies have not taken sufficient account of over many decades, is the importance of the skills and clusters of industries in local places. As my hon. Friend knows, that is very much at the heart of the industrial strategy that we have published.

Rachael Maskell (York Central) (Lab/Co-op): On 8 March, the Chancellor announced a full review of business rates. On 14 March, the Minister responsible for small business said:

"The review will report in due course and in the not-too-distant future."—[*Official Report*, 14 March 2017; Vol. 623, c. 178.]

Yet the industrial strategy barely mentions business rates, which are having a massive impact on businesses in York. When will this review start?

Margot James: The Chancellor has announced considerable business rate relief for small businesses, including making small business rate relief permanent, retrospective redress for SMEs caught by the staircase tax ruling, and more besides.

King's College Hospital Foundation Trust

Mr Speaker: Order. I have selected the urgent question because I judge it to be urgent. However, I should advise the House that it is focused very much on London, and I have that in mind. I am sensitive to the interest in the subject, but I am conscious also that we have other business that will run for several hours and in which there is intense interest. That is a guide to the House that I do not intend to run the urgent question beyond approximately half an hour.

12.32 pm

Ms Harriet Harman (Camberwell and Peckham) (Lab) *(Urgent Question):* To ask the Secretary of State for Health if he will make a statement on the resignation of Lord Kerslake as chair of the King's College Hospital NHS Foundation Trust.

The Minister of State, Department of Health (Mr Philip Dunne): I would like to begin by paying tribute to Lord Kerslake, whom I have met in his role as chair of King's, which he has served with great commitment for two years during a period of significant challenge. While we may differ on some matters of policy, this should not blind us to the service that he has given to the NHS.

The context of Lord Kerslake's departure from King's is the very real financial challenges faced by the trust and the way in which these have or have not been addressed. A number of other trusts have similar challenges, but none has deteriorated as far or as fast as King's, especially in the past few months. This is why it was placed into financial special measures by NHS Improvement yesterday.

There has been a consistent pattern of financial projections by the trust that have not been met during Lord Kerslake's tenure as chairman. In 2016-17, a planned deficit of £1.6 million deteriorated over the year to an actual deficit of £59.6 million. For the current year, a budget deficit of £38.8 million was agreed in May. At month 5, the chairman confirmed to NHS Improvement that the trust was on track to meet this deficit, but by October there had been significant deterioration in the trust's position, with a projected deficit of £70.6 million at October—£32.1 million worse than planned. NHS Improvement was informed last week that this had deteriorated further to a mid-case projection of a deficit of £92.2 million, which would be £53.4 million worse than the original planned deficit. Indeed, Lord Kerslake indicated that the final position could be even worse.

King's is receiving substantial financial support from the Department of Health. During this financial year, the trust is receiving £135 million of support to maintain frontline services. That is the second highest level of support across England. Both the level of deficit and the speed of deterioration are unacceptable, as I am sure all hon. Members will agree. Although no trust or hospital is an island, it is right that those charged with leading it should take responsibility for such results. The chief financial officer and chief operating officer both resigned last month, and, as we know, Lord Kerslake left on Sunday.

The trust will now receive even more support with the appointment of a financial improvement director. The organisation will be required to implement a plan to improve its finances, which will be closely monitored by NHS Improvement. On top of special measures and subject to due process, NHS Improvement intends to appoint Ian Smith as a new and experienced interim chair for King's to take control of the organisation's position.

Ms Harman: Does the Minister not realise that the problem at King's is not the leadership, any more than it is the growing number of patients or the dedicated staff? The problem at King's is that there is not enough money. He shows no recognition of the fact that over the past two years, King's has already cut £80 million—double the rate that other hospitals have had to cut—and taken on an ailing trust to help out the wider NHS. King's is now being told that it has to make even further cuts. How can it keep its A&E waiting times down, prevent waiting lists from growing and continue to meet cancer targets if it goes on to make further cuts?

Will the Minister face up to the fact that problems caused by lack of money are simply not going to be solved by blaming the leadership? King's is an amazing hospital and a specialist world centre of research, which is also there for local people. It was there after the Grenfell Tower fire and the terrorist incidents we have had in London. Is it too much to ask the Government to recognise the reality of the situation and pull back from imposing further cuts, which will make patients suffer? No amount of changing the faces at the top will make that difference. It is the Minister's responsibility.

Mr Dunne: The right hon. and learned Lady said on the radio yesterday,

"just because they're the regulator, when these judgments have to be made, doesn't mean that they are actually right".

I have to ask her about that, in the light of the comments made by NHSI, the regulator. I will give her a couple of quotes. Jim Mackey, who was until recently the chief executive of NHSI, has said:

"Honestly, I don't think they have in my time hit a single set of their re-forecasted numbers".

The current chief executive, Ian Dalton, has said that no other trust in the country

"has shown the sheer scale and pace of the deterioration at King's".

This is not just about the numbers; it is about the way in which the trust is managed.

Chuka Umunna (Streatham) (Lab): Have you been there?

Mr Dunne: I have visited the trust, and I have met the chairman and finance director. The brutal reality is that they were not addressing the problems as they should have done, and as is being done across the NHS.

Chris Philp (Croydon South) (Con): The right hon. and learned Lady has just asked questions concerning funding. Will the Minister confirm that NHS spending is at a record level, and that the Budget on 22 November provided a further £6 billion to support our NHS?

Mr Dunne: I am grateful to my hon. Friend, because I can confirm that the NHS is receiving record levels of funding, in advance of the plan that was agreed with the

NHS chief executive for the five year forward view. That was front-loaded for the five years, so the NHS has received increases of funding for the first three of those five years over and above what was requested.

Jonathan Ashworth (Leicester South) (Lab/Co-op): Lord Kerslake has said that the Government are

"simply not facing up to the enormous challenge the NHS is currently facing".

We agree. The Nuffield Trust has today called King's

"the canary down the coalmine"

for NHS finances. Hospitals across London and beyond have been forced to cut costs by 4% a year since 2011, yet the report that Ministers commissioned from Lord Carter advised that trusts should find savings of 2% a year.

Does the Minister agree with NHS Providers, which warns that the saving hospitals have been ordered to find

"risks the quality of patient care"?

He will know that, by September this year, 83% of acute hospital trusts were in deficit to the tune of £1.5 billion. Does he agree that these deficits, across London and beyond, are a consequence of Government underfunding, cuts to tariffs and the failure to get a grip of delayed transfers of care because of the £6 billion of cuts to social care? Does he expect delayed transfers of care to increase in the coming weeks, and will trusts again be ordered to cancel elective operations this winter?

Before the Budget, the NHS argued publicly for an extra £4 billion in revenue a year. Why did the Chancellor refuse to give the NHS the extra funding that Simon Stevens asked for? Lord Kerslake has said that our NHS faces the

"tightest spending figures in recent times".

Does that not mean that, as at King's, there will be continued hospital deficits, growing waiting lists, greater rationing of care, the dropping of the 18-week target, more privatisation and an NHS pushed to the brink because of this Government' persistent underfunding? Do patients not deserve better?

Mr Dunne: I think the hon. Gentleman's critique would have a shade more credibility if he acknowledged that, before the 2015 election, the then shadow Health Secretary indicated that he wanted £5.5 billion less for the NHS than my party was offering. If we had followed that prescription, the financial position of the NHS would be far worse.

The hon. Gentleman asked about delayed transfers of care. In March, the Chancellor gave an additional £2 billion to the adult social care system, precisely targeted on reducing DTOC, and significant progress is being made in freeing up beds across the system. He also asked about NHS funding in the most recent Budget. The Chancellor awarded an additional £2.8 billion in revenue support for this year, next year and the following year, and a further £3.5 billion of capital to support programmes.

Stephen Hammond (Wimbledon) (Con): As a London MP, I know that other hospitals that have faced challenging situations have put in place improvement plans and met the targets set by NHSI. If the regulator had not acted yesterday, would it not have been letting down other London hospitals and my constituents?

Mr Dunne: My hon. Friend is quite right. There has to be a sense of responsibility and accountability for delivering on budget deficits—if they are deficits—that have been agreed between the regulator and the trust. That is happening up and down the country, and it would be unfair on other trusts and other areas of the country if one trust was allowed to get away with its performance unchecked.

Martyn Day (Linlithgow and East Falkirk) (SNP): The key to this question has to be ensuring sustainable delivery of the NHS. The Minister may wish to look at the model in Scotland, where we have boosted investment and listened to the needs of our healthcare workers. By stark contrast, the UK Government seem intent on burning their bridges with NHS staff with their cost cutting and special financial measures. When will the UK Government wake up and realise that their ideologically driven austerity threatens the very future of our NHS?

Mr Dunne: I am afraid that the hon. Gentleman was not referring to the urgent question. We are talking about what has happened at King's over the past few days, rather than what is happening in Scotland.

Bob Blackman (Harrow East) (Con): My local hospital trust, based on Northwick Park Hospital, has had to make some very difficult decisions to make itself more efficient and to reduce its deficit, and it has done so under excellent leadership. Does my hon. Friend know whether decisions were taken at King's to keep to the deficit target? Were efficiencies made, and how effective were they?

Mr Dunne: What is particularly disappointing about King's is that it does have a cost improvement programme, but regrettably, it has not been able to keep to it. It is particularly surprising that, as recently as October, the senior leadership team indicated that they were on track to meet their deficit, which palpably, as we now realise, was not the case.

Helen Hayes (Dulwich and West Norwood) (Lab): King's College Hospital is in my constituency, and I can tell the Minister that the roots of this current financial crisis go back to 2013, with the collapse of the South London Healthcare NHS Trust and the decision to incorporate two additional hospitals, which were failing in their services, into the King's trust without adequate funding to support that decision. This has been followed by year-on-year, real-terms revenue cuts and next-to-zero capital funding, while demand and need in our community is going up all the time. Instead of scapegoating a well-respected public servant, will the Minister listen to his wake-up call and look again at holding a full review of the finances for King's College Hospital, and will he give the trust the resources it needs, so that the exceptional doctors and nurses who work for it can deliver the care and treatment that patients need and deserve?

Mr Dunne: I share the hon. Lady's support for the clinicians and professionals working in her trust, who are doing the best job they can in admittedly challenging circumstances. I do not accept her characterisation of a

[Mr Dunne]

lack of capital provided to King's. I have been there myself and seen some of the building work going on. I am happy to look at the circumstances surrounding what happened in 2013, but they are not as relevant to today's situation as the way the trust's financial management has deteriorated in recent months.

John Howell (Henley) (Con): What has NHS Improvement said about this, and what has it recommended that King's should do?

Mr Dunne: As I have indicated, the chief executive of NHS Improvement said yesterday that no other trust

"has shown the sheer scale and pace of the deterioration at King's. It is not acceptable for individual organisations to run up such significant deficits when the majority of the sector is working extremely hard to hit their financial plans, and in many cases have made real progress."

That is from the regulator responsible for putting the trust into special measures for now.

Chuka Umunna: The "brutal reality"—to use the Minister's words—is that the staff at King's, which also serves my constituency, are doing all they can in impossible circumstances. If we are honest about this, we on both sides of the House have perpetuated the fiction for too long—over decades—that we can have Scandinavian levels of public services on American levels of taxation. That is why I ask him to heed the call of the hon. Member for Totnes (Dr Wollaston), and many others across the House, and set up a proper convention to look at what is a sustainable model, not just for King's but for the whole NHS, so that our constituents can continue to get the services they deserve.

Mr Dunne: I share the hon. Gentleman's support for the staff, and I have already paid tribute to the hard work and commitment that they are showing to their local population. His question regarding a royal commission is rather beyond the scope of this urgent question and rather above my paygrade.

Maria Caulfield (Lewes) (Con): We do have a problem with NHS managers; not only are there too many of them, but many lack clinical skills, which is probably why they make so many bizarre decisions. On Lord Kerslake's watch, £715,000 was spent off payroll last year on an interim director, and £30,000 a month was spent on temporary managers. There is a problem with this scandalous waste of taxpayers' money.

Mr Dunne: My hon. Friend takes a close interest in what is happening in London's hospitals, where she regularly works shifts. From time to time, there is a need for some interim managers to fill vacancies and gaps, but she is absolutely right that we have taken significant action to limit the excessive amounts that some have been paid. The amounts have now been capped and are being driven out of the service, and the interim mangers are being encouraged to take up substantive positions.

Kate Hoey (Vauxhall) (Lab): I pay tribute to the staff at King's, who have looked after so many of my constituents so well. Does the Minister agree that one thing we have to learn from this is that when a trust takes over a failing hospital, the challenges and difficulties can be much more than people have said, and the money given has not always been spent as it should have been? Does he also agree that just appointing a former head of the civil service to chair a trust does not necessary mean that they will have the attributes to do the job and that sometimes they are so busy doing other jobs that they might just take their eye off the ball?

Mr Dunne: In relation to the hon. Lady's first point, I think that the experience has been variable; some outstanding trusts have taken on failing hospitals and managed successfully to turn them around, and others have found it more of a challenge. I accept that it is specific to the circumstances, and we are looking to learn from the various experiences to ensure that we encourage the right trusts to buddy up with those that are in trouble. In relation to her second point, I gently point out that Lord Kerslake has been providing advice to the NHS, and he has been spending a considerable part of his time providing advice to the Leader of the Opposition on a whole range of non-NHS-related topics.

Mrs Cheryl Gillan (Chesham and Amersham) (Con): Following on from the hon. Lady's question, King's College Hospital NHS Foundation Trust is indeed a significant organisation and it requires very firm leadership. I understand the chairman who has resigned from his position also held seven remunerated roles other than that chairmanship and four non-financial positions. Will the Minister assure the House that any future chairman will be looked at very closely to ensure they have the capacity to lead an organisation of this size successfully?

Mr Dunne: My right hon. Friend makes a very valid point. We need to ensure that chairmen who go into trusts that have challenges have the capacity to do that job. I will be looking to ensure that NHS Improvement challenges Ian Smith, if he is appointed, to check that he has sufficient capacity to undertake the role. My understanding is that he does.

Sir Edward Davey (Kingston and Surbiton) (LD): Will the Minister ask NHS Improvement to produce a report on what has happened at King's, so that Parliament can look at the report to learn the lessons and to find out who was right?

Mr Dunne: NHS Improvement regularly reviews trusts in financial special measures. It does so through the usual channels to the ministerial team responsible for it. It will do so in this case, as it does in all other cases where financial special measures have been entered into.

David T. C. Davies (Monmouth) (Con): Is it not the case that what we have here is one of Labour's top advisers jumping in a blaze of politically motivated publicity before being pushed out for woeful financial mismanagement?

Mr Dunne: My hon. Friend may say that; I am not going to comment.

Mr Ben Bradshaw (Exeter) (Lab): The Minister quoted selectively from the chief executive of NHS Improvement, who also made it absolutely clear he did not think the NHS has enough money overall. In the real world,

as opposed to the fantasy world inhabited by Conservative Ministers, Simon Stevens, the head of the NHS, has repeatedly told the Health Committee that the NHS cannot do what the Government are asking it to do with the current money. Is it not clear that there will be no £350 million a week extra for the NHS? There will be less, because of the impact of Brexit and the economic incompetence of this Conservative Government.

Mr Dunne: I was actually quoting the chief executive of NHS Improvement.

Sir Desmond Swayne (New Forest West) (Con): What was he paid and where is he going next?

Mr Dunne: I understand that Lord Kerslake was paid in the range of £60,000 to £65,000 for his role as chairman of King's. My right hon. Friend would have to ask him where he is going next.

Clive Efford (Eltham) (Lab): The Minister has to accept that when the Government stepped in with South London Healthcare NHS Trust in 2013, they imposed their own interim director, just as they are now doing at King's, and imposed the restructuring of south-east London health but never, ever funded it. That has led to the crisis at King's today. The buck stops with the Tories. You just cannot trust the Tories with the NHS.

Mr Dunne: I am afraid the hon. Gentleman was clearly not listening to my response to the question. The trust agreed a budget deficit in May this year of £38.8 million. That figure is currently £92 million from activity happening this year, not in the past.

Matt Warman (Boston and Skegness) (Con): Is not the reality that any politically motivated resignation such as this leaves the NHS, the hard-working staff and the patients all worse off?

Mr Dunne: All those who assist the NHS in a non-executive capacity do so with the best motivations. I would not question Lord Kerslake's motivation for wanting to undertake this role. As to the suitability of all the individuals appointed to these positions, that will be variable because there are so many organisations across the NHS. I would not like to make any comment about political motivation in relation to this departure.

Andy Slaughter (Hammersmith) (Lab): Imperial College Healthcare NHS Trust is also running a large deficit—it is not just King's. The Government's solution is to demolish Charing Cross hospital, when admissions have gone up 11% in the past two years. We are on our fourth chief executive in five years. The last one left to run NHS Improvement before he could even meet local MPs. When are the Government going to get a grip and fund the NHS properly, rather than blame everybody else for the problem?

Mr Dunne: I share the hon. Gentleman's concern about trusts that have a revolving door of senior leadership. One thing we are looking to do is to encourage a larger cadre of leadership people in the NHS and more clinicians to become leaders, so we have more consistency of skills and better trained leaders across the NHS. I do not think the departure of Ian Dalton from Imperial has anything to do with the subject of King's College, or indeed with the funding of the NHS.

Rachel Maclean (Redditch) (Con): Is it not the case that in any senior public service appointment within the civil service, a basic requirement is political neutrality and non-partisanship? Is there a question for the Committee on Standards in Public Life with regard to this particular appointment?

Mr Dunne: The NHS is the largest organisation in the country and everybody who works in it will have their own political views and persuasions. Very few of them are brought to the board table. It is the case that when in government parties on both sides appoint individuals with political representation from the other side, so I think we have to be balanced about this. I would gently point out that Lord Kerslake sits as a Cross Bencher, although he may provide advice to one party more than another.

Karin Smyth (Bristol South) (Lab): Does the Minister believe that the duty of candour extends to NHS leaders?

Mr Dunne: The duty of candour applies right across the NHS.

Robert Jenrick (Newark) (Con): Does my hon. Friend agree that one upshot from the noble Lord's resignation is that he will have more time on his hands to use his proven financial prowess to prepare implementation manuals for the Leader of the Opposition?

Mr Dunne: My hon. Friend is very ingenious with his question. Clearly, there will be more time available for Lord Kerslake to take on his other responsibilities. The Leader of the Opposition might like to look very closely and keenly at the financial performance of the organisation over which Lord Kerslake has taken responsibility before he adopts any of his other advice.

Margaret Greenwood (Wirral West) (Lab): It is abundantly clear that the Government are accelerating the privatisation of our national health service by reducing supply in the NHS to create demand for private health insurance. We do not want a US-style health insurance here. Will the Minister please give the NHS the money it needs?

Mr Dunne: I cannot understand how the hon. Lady can make such an interpretation from any discussions that have been held, either in this urgent question or further afield. The Government have just given an additional £2.8 billion over and above that asked for by the chief executive of NHS England when he set out the five year forward view and up to £10 billion of capital. This is nothing whatever to do with privatisation.

Robert Courts (Witney) (Con): Will the Minister confirm that the trust has been in discussions with NHS Improvement with regards to reducing its deficit for some time and that the forecast of double the deficit is an unacceptably poor standard of financial leadership at a time when other trusts have made great successes in improving patient care and finding successors?

Mr Dunne: My hon. Friend is quite right. There are financial pressures across the NHS in England. We have been very clear and very open about that. Some trusts are managing within those financial challenges and other trusts are not. That is in large part down to the rigour and leadership given to those trusts. Unfortunately, in this trust there has not been sufficient of either.

Ms Marie Rimmer (St Helens South and Whiston) (Lab): Given the financial incapacity problems currently affecting the NHS, is it right or fair that individual acute trust leaders should be removed from their post when surely their perceived failures are part of wider systems issues and funding pressures?

Mr Dunne: The hon. Lady is right to identify pressures across the system, but it is also the case that when leaders change their position in a very short period of time and oversee a period of significant deterioration, the regulator has to take a view on whether those individuals are the right people to continue to lead that organisation. I think that that is what has happened in this case.

Lucy Frazer (South East Cambridgeshire) (Con): Does the Minister think it would have been possible for the trust to have improved, notwithstanding its financial position? I ask in the knowledge that Cambridge University Hospitals went from special measures to outstanding in care and good overall.

Mr Dunne: My hon. and learned Friend highlights the special measures regime. We have introduced a financial special measures regime and, during 2016-17, the trusts that went through that regime—King's went in only yesterday—improved their financial performance by £100 million overall over the year. The short answer is yes. It is possible to manage improvement through this regime, and that is what NHS Improvement is there to do—to help trusts that get into financial difficulties to manage their way out of them.

Andrew Bridgen (North West Leicestershire) (Con): Given the noble Lord Kerslake's much publicised association with the current Labour leadership, should it come as any surprise that the trust he was chairing would run out of taxpayers' money? Is not the truth that he jumped and squeaked before he was pushed?

Mr Dunne: My hon. Friend is right to highlight the sources of advice that the Leader of the Opposition seeks to take. He will need to reflect on that, as will the shadow Chancellor. In connection with this particular situation, it is the case that NHS Improvement spoke to Lord Kerslake last week to ask him to consider his position.

Point of Order

1.1 pm

Alex Cunningham (Stockton North) (Lab): On a point of order, Mr Speaker. The deadline for members of the British Steel pension scheme to decide whether to join their new employers' scheme, to have their pension paid through the Pensions Protection Fund or to make personal arrangements is all but upon them. The House will share my concerns over rogue advisers who are cold calling scheme members and attempting to part them from their hard-earned pension pots with a series of elaborate get-rich-quick schemes. One that I have heard of costs 5% of the pension pot immediately and is littered with high costs, with a further 5% fee if the person cancels their arrangement. The Financial Conduct Authority has been in steel areas trying to alert scheme members to the dangers, but more needs to be done. Mr Speaker, are you aware of any plans by Ministers to make a statement and outline to the House what the Government are doing to ensure that British Steel pension scheme members are properly protected?

Mr Speaker: I thank the hon. Gentleman for giving me notice that he wished to raise this matter. I am bound to say that I have not received any indication that a Minister intends to make a statement on this matter in the Chamber. That said, I appreciate that it is a matter of considerable concern to the hon. Gentleman and his constituents. My understanding of that fact is enhanced by the examples that the hon. Gentleman has just furnished to the House. Moreover, it may well be a matter of considerable concern to other Members, too. The hon. Gentleman has succeeded in putting his concern on the record and I trust that it will have been heard on the Treasury Bench. The hon. Gentleman is a person of considerable ingenuity and no little experience in the House, and I rather sense that he will lose no opportunity to air his concerns again in the coming days.

Courts (Abuse of Process)

Motion for leave to bring in a Bill (Standing Order No. 23)

1.3 pm

Liz Saville Roberts (Dwyfor Meirionnydd) (PC): I beg to move,

That leave be given to bring in a Bill to prevent abuse of process in civil and family courts; to make provision about cooperation between court jurisdictions; to create offences when certain civil and family court orders are breached; to amend the rights and duties of certain parties to prevent abuse of process in civil and family court; and for connected purposes.

Since becoming a Member of Parliament in May 2015, I have endeavoured to do my best to further the interests of victims of gender-related abuse, stalking and harassment. In this I would aspire to follow in the footsteps of my predecessor, Elfyn Llwyd, whose work on coercive control legislation entered the statute books two years ago this month.

I am honoured to present this motion in collaboration with Harry Fletcher of the victims' rights campaign, who, working alongside Zainab Gulamali of Plaid Cymru's office and Speaker's intern Ami McCarthy, has a worthy record of furthering the interests of victims here in Westminster. Our work earlier this year reviewed victims' experiences of vexatious court claims, many of which had been initiated by perpetrators of abuse. A survey of 122 victims of stalking and domestic abuse gave us a snapshot of individuals' unnecessary suffering and distress, as well as the courts' unintended role. Our research uncovered that 55% of the victims had court proceedings taken out against them by their abusers. All these victims—this should be noted: all of these victims—had restraining orders in place. Two thirds of them had to appear in court, and a third were personally cross-examined by the perpetrator. In only a quarter of these cases did the police view the court proceeding as a breach of those restraining orders.

The purpose of this Bill is to limit the ability of perpetrators of primarily domestic abuse, stalking and harassment to use—indeed, to misuse or abuse—family and civil courts as a cynical and calculated method of causing further distress and exercising deliberate control over the actions of their victims. The Bill also strengthens the sanctions available for a breach of a restraining or other restrictive order. In the event of multiple breaches, the Bill introduces a presumption of custody.

The Bill gives the court the power to dismiss any meritless applications where it is apparent that their purpose is to harass or distress victims under the guise of an appeal to justice in matters relating to civil or family court jurisdiction. The applicant would be obliged to declare any unspent convictions and restrictions in relation to the respondent or similar convictions against other victims. The respondent would be given the power to inform the court of any relevant convictions or restraining orders in respect of the applicant. The court would have a duty to investigate such claims.

In such circumstances, if proceedings were permitted to continue, the respondent would be able to request special measures such as the provision of screens or video links. I bring with me today a dossier of case studies, and I will refer to some specific examples. It must be emphasised that abuse of process in civil and family courts affects both men and women, and causes distress and, in many instances, personal financial loss. The experience of children as pawns in adults' power games needs to be remembered, especially when considering that family courts should be seeking a resolution in the best interest of the child. For obvious reasons, the names of all the people described have been altered. They would otherwise be likely to be subject to yet further abuse.

I spoke just last night to a mother in Wales who has been subject to domestic violence and harassment. She has been taken to the family court on five occasions without merit. She has had to give up her career and move house.

Richard has been a victim of stalking for over six years. His stalker repeatedly brings baseless, vexatious claims against him through the civil court. Richard has no option but to represent himself because of lack of funds. Despite the fact that his stalker is subject to a restraining order, he is allowed to cross-examine Richard in the civil courts. Neither the police nor the Crown Prosecution Service recognises these vexatious claims to be in breach of the restraining order. It is difficult to come to a conclusion other than that court procedures are presently colluding with the applicant in his continued abuse of the respondent.

Lucy's ex-partner also has a restraining order, having been charged with stalking her. He has taken Lucy to court 15 times in both civil and family courts, which has cost her around £25,000 as, like many people, she is not eligible for legal aid in these circumstances.

Victims of abuse, often years of abuse, are obliged by court protocol to face their abusers, to sit with them in waiting rooms, to be in close proximity with them in court rooms, and to undergo cross-examination in person. In one instance, Julia, who had a history of mental illness, was sat alongside her previous partner in a family court hearing to decide child custody arrangements. He was able to whisper to her and play on her vulnerability to the point where she unexpectedly changed her standpoint, against what she previously had stated to be her wishes and her best interests. The judge noticed neither the communication in court nor the sudden change in her expressed position. This resulted in ongoing issues regarding custody of her daughter, preventing Julia's access to her child over an extended period of time.

I have repeatedly been told that restraining orders are effectively not worth the paper they are written on. Let us remember that the purpose of such orders is to protect and safeguard people, many of whom would otherwise be living in fear or have previously experienced violence. I have recently obtained, by means of parliamentary written questions, statistics regarding compliance with such orders and their effectiveness in deterring abusive behaviour. The answers revealed that the majority of breaches do not result in custody, with 27% resulting in a fine or conditional discharge. As regards breach of order to prevent contact via social media, it is not even possible to get hold of data. In spite of this, victims report that such contact is commonplace. I know of one instance where the abuser threatened to kill family members of a former partner via Facebook Messenger. The police did not regard this as sufficient evidence of a breach.

To close, I would like to thank the supporters of the Bill. There is cross-party support for what it intends to achieve, and I look forward to opportunities to discuss

[Liz Saville Roberts]

how best to further its contents with the Government. Finally, I would like to emphasise the significance of training in bringing about institutional cultural change. MPs are, of course, would-be legislators, but the grim reality is that the best of laws always run the risk of failing to bring about the difference for the better for which they were originally drafted. Training for the relevant staff and ongoing monitoring will be essential if we are to shift the balance in favour of victims in ensuring that the justice system best serves their interests and welfare.

Question put and agreed to.

Ordered,

That Liz Saville Roberts, Jess Phillips, Tracy Brabin, Dr Sarah Wollaston, Tim Loughton, Alex Norris, Mr Alistair Carmichael, Alison Thewliss, Ben Lake, Jim Shannon, Caroline Lucas and Peter Kyle present the Bill.

Liz Saville Roberts accordingly presented the Bill.

Bill read the First time; to be read a Second time on Friday 16 March 2018, and to be printed (Bill 141).

European Union (Withdrawal) Bill

[6th Allocated Day]

[Relevant documents: First Report of the Exiting the European Union Committee, European Union (Withdrawal) Bill, HC 373 First Report of the Procedure Committee, Scrutiny of delegated legislation under the European Union (Withdrawal) Bill: interim report, HC 386.]

Further considered in Committee

[Mrs Eleanor Laing *in the Chair*]

New Clause 18

Regulations to deal with deficiencies arising from withdrawal - Independent Report

"Within one month of Royal Assent of this Act HM Government shall commission the publication of an Independent Report into the constitutional implications of the powers delegated to Ministers in section 7 of this Act and the implications these powers will have on the relationship between Parliament and the executive, the rule of law and legal certainty, and the stability of the UK's territorial constitution."—*(Mr Leslie.)*

This new clause would require the Government to commission an Independent Report into the constitutional implications of the wide-ranging powers to make regulations delegated to Ministers in Clause 7 of the Bill, in pursuance of the conclusions of the 3rd Report of the House of Lords Select Committee on the Constitution session 2017-19 (HL Paper 19) "European Union (Withdrawal) Bill: interim report"

Brought up, and read the First time.

1.13 pm

Mr Chris Leslie (Nottingham East) (Lab/Co-op): I beg to move, That the clause be read a Second time.

The First Deputy Chairman of Ways and Means (Mrs Eleanor Laing): With this it will be convenient to consider the following:

New clause 24—*Scope of delegated powers*—

"Subject to sections 8 and 9 and paragraphs 13 and 21 of Schedule 2, any power to make, confirm or approve subordinate legislation conferred or modified under this Act and its Schedules must be used, and may only be used, insofar as is necessary to ensure that retained EU law continues to operate with equivalent scope, purpose and effect following the United Kingdom's exit from the EU."

The purpose of this amendment is to ensure that the powers to create secondary legislation given to Ministers by the Bill can be used only in pursuit of the overall statutory purpose, namely to allow retained EU law to continue to operate effectively after exit day.

New clause 27—*Institutional arrangements*—

"(1) Before exit day a Minister of the Crown must make provision that all powers and functions relating to the environment or environmental protection that were exercisable by EU entities or other public authorities anywhere in the United Kingdom before exit day which do not cease to have effect as a result of the withdrawal agreement ('relevant powers and functions') will—

(a) continue to be carried out by an EU entity or public authority;

(b) be carried out by an appropriate existing or newly established entity or public authority in the United Kingdom; or

(c) be carried out by an appropriate international entity or public authority.

(2) For the purposes of this section, relevant powers and functions relating to the UK exercisable by an EU entity or public authority include, but are not limited to—

(a) monitoring and measuring compliance with legal requirements,

(b) reviewing and reporting on compliance with legal requirements,

(c) enforcement of legal requirements,

(d) setting standards or targets,

(e) co-ordinating action,

(f) publicising information including regarding compliance with environmental standards.

(3) Within 12 months of exit day, the Government shall consult on and bring forward proposals for the creation by primary legislation of—

(a) a new independent body or bodies with powers and functions at least equivalent to those of EU entities and public authorities in Member States in relation to environment; and

(b) a new domestic framework for environmental protection and improvement.

(4) Responsibility for any functions or obligations arising from retained EU law for which no specific provision has been made immediately after commencement of this Act will belong to the relevant Minister until such a time as specific provision for those functions or obligations has been made."

This new clause requires the Government to establish new domestic governance proposals following the UK's exit from the EU and to ensure statutory and institutional basis for future environmental protection.

New clause 35—*Regulations (publication of list)*—

"(1) Within 1 month of this Act receiving Royal Assent, the Secretary of State must publish a draft list of regulations that the Government intends to make under section 7.

(2) A list under subsection (1) must include—

(a) the proposed title of the regulation,

(b) the area of retained EU law it is required to correct,

(c) the Government Department who has responsibility for the regulation, and

(d) the proposed month in which the regulation will be tabled.

(3) The Secretary of State must ensure that a list published under subsection (1) is updated within one month from the day it was published, and within one month of every subsequent update, to include any regulations that the Government has since determined it intends to make."

This new clause would require the Government to produce a list of regulations it intends to make under the Bills correcting powers, and to update that list each month, in order to provide clarity about when, and in which areas, it believes the power will be necessary.

New clause 37—*Governance and institutional arrangements*—

"(1) Before exit day a Minister of the Crown must seek to make provision that all powers and functions relating to any right, freedom, or protection, that any person might reasonably expect to exercise, that were exercisable by EU entities or other public authorities anywhere in the United Kingdom before exit day, and which do not cease to have effect as a result of the withdrawal agreement ('relevant powers and functions') will—

(a) continue to be carried out by an EU entity or public authority;

(b) be carried out by an appropriate existing or newly established entity or public authority in the United Kingdom; or

(c) be carried out by an appropriate international entity or public authority.

(2) For the purposes of this section, relevant powers and functions relating to the UK exercisable by an EU entity or public authority include, but are not limited to—

(a) monitoring and measuring compliance with legal requirements,

(b) reviewing and reporting on compliance with legal requirements,

(c) enforcement of legal requirements,

(d) setting standards or targets,

(e) co-ordinating action,

(f) publicising information.

(3) Responsibility for any functions or obligations arising from retained EU law for which no specific provision has been made immediately after commencement of this Act will belong to the relevant Minister until such a time as specific provision for those functions or obligations has been made."

This new clause would ensure that the institutions and agencies that protect EU derived rights and protections are replaced to a sufficient standard so those rights and protections will still be enjoyed in practice.

New clause 53—*Dealing with deficiencies arising from withdrawal in relation to child refugee family reunion*—

"(1) In the exercise of powers under section 7 (Dealing with deficiencies arising from withdrawal) the Secretary of State must in particular make regulations amending the Immigration Rules in order to preserve the effect in the United Kingdom of Commission Regulation (EU) No. 604/2013 (establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person).

(2) In particular, the regulations made under subsection (1) must provide for an unaccompanied minor who has a family member in the United Kingdom who is a refugee or has been granted humanitarian protection to have the same family reunion rights to be reunited in the United Kingdom with that family member as they would have had under Commission Regulation (EU) No. 604/2013.

(3) The regulations under subsection (1) must require an assessment of the best interests of the minor, taking into account possibilities for family reunification, the minor's well-being and social development, safety and security considerations, and the view of the minor.

(4) Regulations under this section must be made within six months of this Act receiving Royal Assent.

(5) For the purpose of this section "family member" in relation to the unaccompanied minor, means—

(a) their parents;

(b) their adult siblings;

(c) their aunts and uncles;

(d) their grandparents."

This new clause is intended to provide for refugee family reunion in the UK in place of the family reunion aspects of the Dublin III Regulation, allowing adult refugees in the UK to sponsor relatives who are unaccompanied children to come to the UK from around the world.

New clause 62—*Enforcement of retained environmental law*—

"(1) The Secretary of State must make regulations under section 7 of this Act for the purpose of ensuring that retained EU legislation relating to environmental protection continues to be monitored and enforced effectively after exit day.

(2) The regulations must, in particular—

(a) create a statutory corporation (to be called "the Environmental Protection Agency") with operational independence from Ministers of the Crown to monitor environmental targets set by retained EU law relating to environmental protection;

(b) require the statutory corporation to report to Parliament every year on progress in meeting those targets and to make recommendations for remedial action where appropriate;

(c) allow the statutory corporation to publish additional reports identifying action or omissions on the part of Ministers of the Crown that is likely to result in targets not being met."

This new clause would require Ministers of the Crown to make specific provision for the enforcement of EU legislation relating to environmental protection.

New clause 63—*Environmental standards and protections: enforcement*—

"(1) Before exit day a Minister of the Crown must make provision that all powers and functions relating to environmental standards and protections that were exercisable by EU entities or other public authorities anywhere in the United Kingdom before exit day and which do not cease to have effect as a result of the withdrawal agreement ("relevant powers and functions") will be carried out by an appropriate existing or newly established entity or public authority in the United Kingdom.

(2) For the purposes of this section, relevant powers and functions include, but are not limited to—

(a) reviewing and reporting on the implementation of environmental standards in practice,

(b) monitoring and measuring compliance with legal requirements,

(c) publicising information including regarding compliance with environmental standards,

(d) facilitating the submission of complaints from persons with regard to possible infringements of legal requirements, and

(e) enforcing legal commitments.

(3) For the purposes of this section, relevant powers and functions carried out by an appropriate existing or newly established entity or public authority in the United Kingdom on any day after exit day must be at least equivalent to all those exercisable by EU entities or other public authorities anywhere in the United Kingdom before exit day which do not cease to have effect as a result of the withdrawal agreement.

(4) Any newly established entity or public authority in the United Kingdom charged with exercising any relevant powers and functions on any day after exit day shall not be established other than by an Act of Parliament.

(5) Before making provision under subsection (1), a Minister of the Crown shall hold a public consultation on—

(a) the precise scope of the relevant powers and functions to be carried out by an appropriate existing or newly established entity or public authority in the United Kingdom, and

(b) the institutional design of any entity or public authority in the United Kingdom to be newly established in order to exercise relevant powers and functions.

(6) A Minister of the Crown may by regulations make time-limited transitional arrangements for the exercise of relevant powers and functions until such time as an appropriate existing or newly established entity or public authority in the United Kingdom is able to carry them out."

This new clause would require the Government to establish new domestic governance arrangements following the UK's exit from the EU for environmental standards and protections, following consultation.

New clause 82—*Tertiary legislation*—

"The powers conferred by this Act do not include power to confer any power to legislate by means of orders, rules or other subordinate instrument, other than rules of procedure for any court or tribunal."

Amendment 65, in clause 7, page 5, line 4, leave out "appropriate" and insert "necessary".

This Amendment would reduce the wide discretion for using delegated legislation and limit it to those aspects which are unavoidable.

Amendment 15, page 5, line 5, leave out from "effectively" to end of line 6 on page 6.

Amendment 49, page 5, line 7, at end insert—

"(1A) Regulations under subsection (1) may be made so far as necessary to adapt the body of EU law to fit the UK's domestic legal framework."

This amendment would place a general provision on the face of the Bill to the effect that the delegated powers granted by the Bill should be used only so far as necessary.

Amendment 131, page 5, line 7, at end insert—

"(1A) A Minister of the Crown must by regulations make provision to maintain, preserve and protect the rights of any citizen of an EU member state who was lawfully resident in the UK immediately before exit day, and in particular to continue their right to be lawfully resident in the UK."

This Amendment is intended to preserve after exit day the rights, including residence rights, of EU citizens in the UK.

Amendment 264, page 5, line 7, at end insert—

"(1A) The Secretary of State shall make regulations to define "failure to operate efficiently" for the purposes of this section."

This amendment would require the Secretary of State to define in regulations one of the criteria for the use of Clause 7 powers to deal with deficiencies arising from withdrawal from the EU.

Amendment 1, page 5, line 8, leave out "(but are not limited to)" and insert "and are limited to".

To restrict the power of a Minister to make regulations to amend retained EU law to cases where the EU law is deficient in the way set out in the Bill.

Amendment 56, page 5, line 8, leave out "(but are not limited to)".

This amendment would remove the ambiguity in Clause 7 which sets out a definition of 'deficiencies in retained EU law' but allows Ministers significant latitude. By removing the qualifying phrase 'but are not limited to', subsection (2) becomes a more precise prescribed set of circumstances where Ministers may and may not make regulations.

Amendment 277, page 5, line 41, at end insert—

"(3A) Regulations under this section may not be made unless a Minister of the Crown has laid before each House of Parliament a report setting out how any functions, regulation-making powers or instruments of a legislative character undertaken by EU entities prior to exit day and instead to be exercisable by a public authority in the United Kingdom shall also be subject to the level of legislative scrutiny by the UK Parliament equivalent to that available to the European Parliament prior to exit day."

This amendment would ensure that any regulatory or rule-making powers transferred from EU entities to UK public bodies receive the same degree of scrutiny that would have been the case if the UK had remained in the European Union.

Amendment 359, page 5, line 41, at end insert—

"( ) Retained EU law is not deficient only because it enables rights to be exercised in the United Kingdom by persons having a connection with the EU, which other persons having a corresponding connection with the United Kingdom may not be able to exercise in the EU as a consequence of the United Kingdom's withdrawal from the EU."

The amendment would make clear that retained EU law cannot be modified under clause 7 to restrict the rights of EU nationals or businesses in the UK simply because UK nationals or businesses may lose equivalent rights in the EU as a result of the UK's withdrawal.

Amendment 57, page 5, line 42, leave out subsection (4).

This amendment would remove the scope for regulations to make provisions that could be made by an Act of Parliament.

Amendment 32, page 5, line 43, at end insert ", apart from amending or modifying this Act".

This amendment would remove the proposed capacity of Ministers under Clause 7 to modify and amend the Act itself via delegated powers.

Amendment 121, page 5, line 44, leave out subsection (5) and insert—

"(5) No regulations may be made under this section which provide for the establishment of public authorities in the United Kingdom.

(6) Subsection (5) applies to but is not limited to—

(a) Agency for the Cooperation of Energy Regulators (ACER),

(b) Office of the Body of European Regulators for Electronic Communications (BEREC Office),

(c) Community Plant Variety Office (CPVO),

(d) European Border and Coast Guard Agency (Frontex),

(e) European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (eu-LISA),

(f) European Asylum Support Office (EASO),

(g) European Aviation Safety Agency (EASA),

(h) European Banking Authority (EBA),

(i) European Centre for Disease Prevention and Control (ECDC),

(j) European Chemicals Agency (ECHA),

(k) European Environment Agency (EEA),

(l) European Fisheries Control Agency (EFCA),

(m) European Insurance and Occupational Pensions Authority (EIOPA),

(n) European Maritime Safety Agency (EMSA),

(o) European Medicines Agency (EMA),

(p) European Monitoring Centre for Drugs and Drug Addiction (EMCDDA),

(q) European Union Agency for Network and Information Security (ENISA),

(r) European Police Office (Europol),

(s) European Union Agency for Railways (ERA),

(t) European Securities and Markets Authority (ESMA), and

(u) European Union Intellectual Property Office (EUIPO)."

This amendment ensures that the Government cannot establish new agencies using delegated legislation.

Amendment 388, page 5, line 44, leave out subsection (5).

Amendment 61, page 6, line 3, leave out sub-paragraph (ii).

This amendment would remove the ability of Ministers to replace or abolish public service functions currently undertaken by EU entities without making an alternative provision for those equivalent public services to continue domestically after exit day. Retaining the existing functions undertaken by the EU is an important principle that the part of this sub-clause could potentially undermine.

Amendment 5, page 6, line 3, leave out "abolished".

To prevent the abolition by SI of a function currently carried out by an EU entity in the UK, as opposed to its replacement or modification.

Amendment 108, page 6, line 4, leave out paragraph (b).

This amendment seeks to prevent the establishment of new public bodies by means of secondary legislation only, as opposed to primary legislation.

Amendment 17, page 6, line 6, at end insert—

"(5A) Regulations under this section must be prefaced by a statement by the person making the regulations—

(a) specifying the nature of the failure of retained European Union law to operate effectively or other deficiency arising from the withdrawal of the United Kingdom from the European Union in respect of which the regulations are made, and

(b) declaring that the person making the regulations—

(i) is satisfied that the conditions in section 7 are met,

(ii) is satisfied that the regulations contain only provision which is appropriate for the purpose of preventing, remedying or mitigating any failure to operate effectively or other deficiency in retained European Union law arising from the withdrawal of the United Kingdom from the European Union in respect of which the regulations are made,

(iii) is satisfied that the effect of the regulations is in due proportion to that failure to operate effectively or other deficiency in European Union retained law arising from the withdrawal of the United Kingdom from the European Union, and

(iv) is satisfied that the regulations are compatible with the Convention rights (within the meaning of section 1 of the Human Rights Act 1998 (c. 42))."

This amendment replicates the provisions in the Civil Contingencies Act 2004, which limit Ministers' powers even in a time of declared emergency. They ensure that statutory instruments are proportionate and necessary.

Amendment 48, page 6, line 6, at end insert—

"(5A) But a Minister may not make provision under subsection (4), other than provision which merely restates an enactment, unless the Minister considers that the conditions in subsection (5B), where relevant, are satisfied in relation to that provision.

(5B) These conditions are that—

(a) the effect of the provision is proportionate to the policy objective,

(b) the provision does not remove any necessary protection, and

(c) the provision does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise."

This amendment is intended to prevent the regulation-making power from being used to remove necessary protections.

Amendment 104, page 6, line 6, at end insert—

"(5A) A public authority established under this section will be abolished after two years."

This amendment provides for any new public authority established under secondary legislation to be temporary.

Amendment 342, page 6, line 6, at end insert—

"(5A) Regulations to which subsection (5) applies must so far as practicable ensure that all powers and functions exercisable by EU entities or other public authorities anywhere in the United Kingdom before exit day which do not cease to have effect as a result of the withdrawal agreement are carried out by either an EU entity, an appropriate public authority in the United Kingdom or an appropriate international entity after exit day".

This amendment would ensure that standards, rights and protections currently maintained by EU entities or public authorities in member states will continue to be maintained in practice following the UK's exit from the EU.

Amendment 123, page 6, line 10, at end insert—

"(ca) weaken, remove or replace any requirement of law in effect in the United Kingdom place immediately before exit day which, in the opinion of the Minister, was a requirement up to exit day of the United Kingdom's membership of the customs union,"

This amendment is intended to prevent the regulation-making powers being used to create barriers to the UK's continued membership of the customs union.

Amendment 124, page 6, line 10, at end insert—

"(ca) weaken, remove or replace any requirement of law in effect in the United Kingdom place immediately before exit day which, in the opinion of the Minister, was a requirement up to exit day of the United Kingdom's membership of the single market,".

This amendment is intended to prevent the regulation-making powers being used to create barriers to the UK's continued membership of the single market.

Amendment 222, page 6, line 11, at end insert—

"(da) remove any protections or rights of consumers which are available in the United Kingdom under EU law immediately before exit day."

This amendment would prevent the Government from using powers in the Act to remove any consumer protections or rights enshrined in EU law after the United Kingdom's withdrawal from the European Union.

Amendment 332, page 6, line 11, at end insert—

"(da) remove or reduce any rights available to unaccompanied child refugees or asylum seekers (including those who wish to claim asylum) concerning their admission or transfer to the UK under—

(i) Regulation (EU) No 604/2013 (the "Dublin Regulation"); or

(ii) Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States;

(db) remove any rights or obligations derived from the Treaty on the Functioning of the European Union, the Treaty on the European Union, or the Charter of Fundamental Rights, which can be applied to the treatment of unaccompanied child refugees or asylum seekers (including those who wish to claim asylum) concerning their admission or transfer to the UK,"

This amendment would prevent a Minister from using regulations under Clause 7 of the Bill to remove or reduce rights under the Dublin Regulation, the 2004 Directive on freedom of movement, or to remove rights or obligations under TFEU, TEU or the Charter of Fundamental Rights, regarding admission or transfer to the UK of unaccompanied child refugees or asylum seekers (including those who wish to claim asylum).

Amendment 333, page 6, line 11, at end insert—

"(da) establish a new entity or public authority in the United Kingdom charged with exercising any powers and functions currently exercisable by EU entities or other public authorities anywhere in the United Kingdom before exit day in relation to the environment or environmental protection".

This amendment would ensure that any new institutions required to enforce environmental standards and protections following the UK's exit from the EU can be created only by primary legislation.

Amendment 52, page 6, line 12, after "revoke" insert "the Equality Act 2010 or"

This amendment would prevent regulations under the Bill being used to amend the Equality Act 2010.

Amendment 363, page 6, line 12, after "revoke", insert ", or otherwise modify the effect of,"

This amendment would ensure that the restriction in this paragraph could not be undermined by the use of legislation which does not amend the text of the Human Rights Act but modifies its effect.

Amendment 364, page 6, line 13, after "it", insert—

"(ea) amend, repeal or revoke, or otherwise modify the effect of, any other law relating to equality or human rights,".

This amendment would broaden the restriction in this subsection to protect all legislation relating to equality and human rights (and not only the Human Rights Act 1998).

Amendment 2, page 6, line 18, at end insert—

"(g) make any other provision, unless the Minister considers that the conditions in subsection (6A) where relevant are satisfied in relation to that provision.

(6A) Those conditions are that—

(a) the policy objective intended to be secured by the provision could not be secured by non-legislative means;

(b) the effect of the provision is proportionate to the policy objective;

(c) the provision, taken as a whole, strikes a fair balance between the public interest and the interests of any person adversely affected by it;

(d) the provision does not remove any necessary protection;

(e) the provision does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise.

(f) the provision is not of constitutional significance".

To narrow down the circumstances in which this power can be exercised.

Amendment 25, page 6, line 18, at end insert—

"(g) remove or reduce any protections currently conferred upon individuals, groups or the natural environment,

(h) prevent any person from continuing to exercise a right that they can currently exercise,

(i) amend, repeal or revoke the Equality Act 2010 or any subordinate legislation made under that Act."

This amendment would prevent the Government's using delegated powers under Clause 7 to reduce rights or protections.

Amendment 73, page 6, line 18, at end insert—

"(g) make changes to EU-derived domestic legislation concerning the rights of workers in the UK unless the Secretary of State has secured unanimous agreement from the Joint Ministerial Committee."

Amendment 96, page 6, line 18, at end insert—

"(g) limit the scope or weaken standards of environmental protection."

This Amendment ensures that the power to make regulations in Clause 7 may not be exercised to reduce environmental protection.

Amendment 109, page 6, line 18, at end insert—

"(g) amend, repeal or revoke any legal right derived from EU law and operative in UK law immediately before 30 March 2019."

This amendment seeks to prevent the delegated powers granted to Ministers by Clause 7 being used to weaken or abolish existing EU-derived legal rights, such as those on workers' rights, equality, and environmental protection.

Amendment 233, page 6, line 18, at end insert—

"(g) make changes to EU-derived domestic legislation concerning the co-ordination of social security systems between the UK and EU member states unless the Secretary of State has consulted with the relevant Minister in each of the devolved administrations."

This amendment would require that changes cannot be made under Clause 7 to EU-derived domestic legislation concerning the co-ordination of social security systems between the UK and EU member states unless the Secretary of State has consulted with the relevant Minister in each of the devolved administrations.

Amendment 234, page 6, line 18, at end insert—

"(g) make changes to EU-derived domestic legislation concerning eligibility for UK pensions unless a public consultation on these changes has taken place."

This amendment would require that changes cannot be made under Clause 7 to EU-derived domestic legislation concerning eligibility for UK pensions unless a public consultation on these changes has taken place.

Amendment 239, page 6, line 18, at end insert—

"(g) make changes to EU-derived domestic legislation concerning agricultural policies in the UK unless the Secretary of State has secured unanimous agreement from the Joint Ministerial Committee to those changes."

This amendment would ensure that the power to make regulations on agricultural policy under Clause 7 could not be exercised without agreement from the Joint Ministerial Council.

Amendment 240, page 6, line 18, at end insert—

"(g) make changes to EU-derived domestic legislation concerning fisheries in the UK unless the Secretary of State has secured unanimous agreement from the Joint Ministerial Committee to those changes."

This amendment would ensure that the power to make regulations concerning fisheries under Clause 7 could not be exercised without agreement from the Joint Ministerial Council.

Amendment 266, page 6, line 18, at end insert—

"(g) amend, repeal or revoke the Equality Act 2010 or any subordinate legislation made under it."

This amendment would prevent the powers in Clause 7 being used to amend Equality Act 2010 legislation.

Amendment 269, page 6, line 18, at end insert—

"(g) remove, reduce or otherwise limit the rights of EU citizens resident in the UK."

This amendment would prevent the powers in Clause 7 being used to remove, reduce or otherwise limit the rights of EU citizens resident in the UK.

Amendment 272, page 6, line 18, at end insert—

"(g) make provision which, in the opinion of the Minister, could pose a threat to national security."

This amendment would prevent the powers in Clause 7 being used to make provision which could pose a threat to national security.

Amendment 389, page 6, line 18, at end insert—

"(g) confer a power to legislate (other than a power to make rules of procedure for a court or tribunal)."

Amendment 138, page 6, line 18, at end insert—

"(6A) Regulations may not be made under this section unless a Minister of the Crown has certified that the Minister is satisfied that the regulations do not remove or reduce any environmental protection provided by retained EU law."

This amendment ensures that regulations under this section cannot interfere with environmental protection under retained EU law, by requiring a Ministerial certificate.

Amendment 360, page 6, line 18, at end insert—

"(6A) A Minister of the Crown must as soon as reasonably practicable—

(a) publish a statement of Her Majesty's Government's policy as to modifications of retained EU law under this section, so far as they appear to the Minister likely to affect industry and commerce in the United Kingdom, and

(b) consult with representatives of, or participants in, industry and commerce as to the modifications which are necessary or desirable.

(6B) In subsection (6A) "industry and commerce" includes financial and professional services."

The amendment would require early consultation with representatives of the financial and professional services industries on relevant modifications which are to be made under clause 7.

Amendment 385, page 6, line 18, at end insert—

"(6A) A Minister of the Crown must by regulations make provision to replicate the protections in relation to 'protected persons' as defined in Part 3 of the Criminal Justice (European Protection Order) (England and Wales) Regulations 2014 after exit day."

This amendment is intended to require the Government to make regulations that continue to recognise European Protection Orders issued by courts in other EU member states after exit day.

Amendment 16, page 6, line 21, leave out subsection (8).

Amendment 88, page 6, line 25, at end insert—

"(9) Regulations may only be made under subsection (5)(a)(ii) if an impact assessment on the replacement, abolition or modification of the functions of EU entities is laid before each House of Parliament prior to them being made."

This amendment prevents Ministers of the Crown from being able to replace, abolish or modify the functions of EU Agencies without laying impact assessments on its effect before both Houses of Parliament.

Amendment 334, page 6, line 25, at end insert—

"(9) In the exercise of powers under this section the Secretary of State must guarantee the standards and protections currently required as a result of the National Emissions Ceilings Directive, the Ambient Air Quality Directive, the Industrial Emissions Directive, the Medium Combustion Plant Directive and Directive 2004/107/EC relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air."

This amendment would ensure that the UK maintains existing air quality standards and protections following the UK's exit from the EU.

Clause 7 stand part.

Amendment 206, in clause 9, page 6, line 43, leave out "appropriate" and insert "necessary"

To require the final deal with the EU to be approved by statute passed by Parliament.

Amendment 114, page 7, line 1, leave out subsection (2).

This amendment seeks to restrict the delegated powers granted to Ministers by Clause 9.

Amendment 18, page 7, line 2, leave out "(including modifying this Act)" and insert

"except modifying this Act, the Parliament Acts 1911 and 1949 and any Act granted Royal Assent in the session of Parliament in which this Act is passed".

This removes the power of Ministers to amend this Act, the Parliament Acts and any Act granted assent in this session of Parliament. It is necessary so as to safeguard the constitutional provisions in the Parliament Acts, such as the provision that a Parliament cannot last more than five years and the relative powers of the House of Lords.

Amendment 30, page 7, line 2, leave out '(including modifying this Act)' and insert

", apart from amending or modifying this Act".

This amendment would remove the proposed capacity of Ministers in Clause 9 to modify and amend the Act itself via delegated powers.

Amendment 59, page 7, line 2, leave out "including" and insert "but not".

This amendment would prevent the Ministerial order making powers in Clause 9 being used to modify the European Union (Withdrawal) Act itself.

Amendment 368, page 7, line 6, leave out "or".

This amendment is preparatory to Amendment 370.

Amendment 369, page 7, line 7, after "revoke", insert ", or otherwise modify the effect of,"

This amendment would ensure that the restriction in this paragraph could not be undermined by the use of legislation which does not amend the text of the Human Rights Act but modifies its effect.

Amendment 13, page 7, line 8, at end insert—

"(e) make any provision, unless the Minister considers that the conditions in subsection (3B) where relevant are satisfied in relation to that provision.

(3A) Those conditions are that—

(a) the policy objective intended to be secured by the provision could not be secured by non-legislative means;

(b) the effect of the provision is proportionate to the policy objective;

(c) the provision, taken as a whole, strikes a fair balance between the public interest and the interests of any person adversely affected by it;

(d) the provision does not remove any necessary protection;

(e) the provision does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise;

(f) the provision is not of constitutional significance"

Amendment 27, page 7, line 8, at end insert—

"(e) remove or reduce any protections currently conferred upon individuals, groups or the natural environment,

(f) prevent any person from continuing to exercise a right that they can currently exercise,

(g) amend, repeal or revoke the Equality Act 2010 or any subordinate legislation made under that Act."

This amendment would prevent the Government's using delegated powers under Clause 9 to reduce rights or protections.

Amendment 98, page 7, line 8, at end insert—

"(e) limit the scope or weaken standards of environmental protection."

This Amendment ensures that the power to make regulations in Clause 8 may not be exercised to reduce environmental protection.

Amendment 115, page 7, line 8, at end insert—

"(e) amend, repeal or revoke any legal right derived from EU law and operative in UK law immediately before 30 March 2019."

This amendment seeks to prevent the delegated powers granted to Ministers by Clause 9 being used to weaken or abolish existing EU-derived legal rights, such as those on workers' rights, equality, and environmental protection.

Amendment 268, page 7, line 8, at end insert—

"(e) amend, repeal or revoke the Equality Act 2010 or any subordinate legislation made under it."

This amendment would prevent the powers in Clause 9 being used to amend Equality Act 2010 legislation.

Amendment 271, page 7, line 8, at end insert—

"(e) remove, reduce or otherwise limit the rights of EU citizens resident in the UK."

This amendment would prevent the powers in Clause 9 being used to remove, reduce or otherwise limit the rights of EU citizens resident in the UK.

Amendment 274, page 7, line 8, at end insert—

"(e) make provision which, in the opinion of the Minister, could pose a threat to national security."

This amendment would prevent the powers in Clause 9 being used to make provision which could pose a threat to national security.

Amendment 370, page 7, line 8, at end insert ", or

(e) amend, repeal or revoke, or otherwise modify the effect of, any other law relating to equality or human rights.".

This amendment would broaden the restriction in this subsection to protect all legislation relating to equality and human rights (and not only the Human Rights Act 1998).

New clause 1—*Scrutiny Committee*—

"(1) For the purposes of this Act 'a scrutiny committee' refers to either—

(a) the House of Lords Secondary Legislation Scrutiny Committee, or

(b) a Committee of the House of Commons which is established to perform the specific functions assigned to a scrutiny committee in this Act.

(2) The scrutiny committee referred to in subsection (1)(b) shall be chaired by a Member who is—

(a) of the same Party as the Official Opposition, and

(b) elected by the whole House."

This new clause establishes the principle that there shall be a Commons triage committee which works alongside the Lords Secondary Legislation Scrutiny Committee to determine the level of scrutiny each statutory instrument shall receive.

New clause 6—*Government proposals for Parliamentary scrutiny*—

"Within one month of Royal Assent of this Act the Leader of the House of Commons shall publish proposals for improved scrutiny of delegated legislation and regulations that result from this Act."

This new clause would require the Government to bring forward early proposals for the House of Commons to consider as changes to Standing Orders to reflect the scrutiny required as a result of changes to regulation and delegated legislation made by this Act.

New clause 26—*Scrutiny of statutory instruments*—

"(1) A Parliamentary Committee shall determine the form and duration of parliamentary and public scrutiny for every statutory instrument proposed to be made under this Act.

(2) Where the relevant Committee decides that the statutory instrument will be subject to enhanced parliamentary scrutiny the Committee shall have the power—

(a) to require a draft of the proposed statutory instrument be laid before Parliament;

(b) to require the relevant Minister to provide further evidence or explanation as to the purpose and necessity of the proposed instrument;

(c) to make recommendations to the relevant Minister in relation to the text of the draft statutory instrument;

(d) to recommend to the House that "no further proceedings be taken" in relation to the draft statutory instrument.

(3) Where an instrument is subject to enhanced scrutiny, the relevant Minister must have regard to any recommendations made by the Parliamentary Committee pursuant to subparagraph © above before laying a revised draft instrument before each House of Parliament.

(4) Where an instrument is subject to public consultation, the relevant Minister must have regard to the results of the consultation before laying a revised draft instrument before each House of Parliament or making a Written Statement explaining why no revision is necessary."

This new clause seeks to ensure that a Parliamentary Committee rather than ministers should decide what is the appropriate level of scrutiny for regulations made under the Act and that the Parliamentary Committee has the power to require enhanced scrutiny in relation to regulations that it considers to be particularly significant or contentious.

Amendment 68, in schedule 7, page 39, line 13, leave out sub-paragraphs (1) to (3) and insert—

"(1) If a Minister considers it appropriate to proceed with the making of regulations under section 7, the Minister shall lay before Parliament—

(a) draft regulations,

(b) an explanatory document and

(c) a declaration under sub-paragraph (3).

(2) The explanatory document must—

(a) introduce and explain the amendment made to retained EU law by each proposed regulation, and

(b) set out the reason why each such amendment is necessary (or, in the case where the Minister is unable to make a statement of necessity under sub-paragraph (3)(a), the reason why each such amendment is nevertheless considered appropriate).

(3) The declaration required in sub-paragraph (1) must either—

(a) state that, in the Minister's view, the provisions of the draft regulations do not exceed what is necessary to prevent, remedy or mitigate any deficiency in retained EU law arising from the withdrawal of the United Kingdom from the EU (a "statement of necessity"); or

(b) include a statement to the effect that although the Minister is unable to make a statement of necessity the Government nevertheless proposes to exercise the power to make the regulations in the form of the draft.

(4) Subject as follows, if after the expiry of the 21-day period a joint committee of both Houses of Parliament appointed to consider draft regulations under this Schedule ("the joint committee") has not reported to both Houses a resolution in respect of the draft regulations laid under sub-paragraph (1), the Minister may proceed to make a statutory instrument in the form of the draft regulations.

(5) A statutory instrument containing regulations under sub-paragraph (4) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) The procedure in sub-paragraphs (7) to (9) shall apply to the proposal for the draft regulations instead of the procedure in sub-paragraph (4) if—

(a) either House of Parliament so resolves within the 21-day period,

(b) the joint committee so recommends within the 21-day period and neither House by resolution rejects the recommendation within that period, or

(c) the draft regulations contain provision to—

(i) establish a public authority in the United Kingdom,

(ii) provide for any function of an EU entity or public authority in a member State to be exercisable instead by a public authority in the United Kingdom established by regulations under section 7, 8 or 9 or Schedule 2,

(iii) provides for any function of an EU entity or public authority in a member State of making an instrument of a legislative character to be exercisable instead by a public authority in the United Kingdom,

(iv) imposes, or otherwise relates to, a fee in respect of a function exercisable by a public authority in the United Kingdom,

(v) creates, or widens the scope of, a criminal offence, or

(vi) creates or amends a power to legislate.

(7) The Minister must have regard to—

(a) any representations,

(b) any resolution of either House of Parliament, and

(c) any recommendations of a committee of either House of Parliament charged with reporting on the proposal for the draft regulations,

made during the 60-day period with regard to the draft regulations.

(8) If after the expiry of the 60-day period the draft regulations are approved by a resolution of each House of Parliament, the Minister may make regulations in the form of the draft.

(a) revised draft regulations, and

(b) a statement giving a summary of the changes proposed.

(9) If after the expiry of the 60-day period the Minister wishes to proceed with the draft regulations but with material changes, the Minister may lay before Parliament—

(a) revised draft regulations, and

(b) a statement giving a summary of the changes proposed

(10) If the revised draft regulations are approved by a resolution of each House of Parliament, the Minister may make regulations in the terms of the revised draft.

(11) For the purposes of sub-paragraphs (1) to (10) regulations are made in the terms of draft regulations or revised draft regulations if they contain no material change to their provisions.

(12) In sub-paragraphs (1) to (10), references to the "21-day" and "60-day" periods in relation to any draft regulations are to the periods of 21 and 60 days beginning with the day on which the draft regulations were laid before Parliament.

(13) For the purposes of sub-paragraph (12), no account is to be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than four days."

This amendment would require the Minister to provide an explanatory statement on whether the regulations simply transpose EU law or make further changes, subject to a check by a committee of the House, and require that if the regulations involve more than simple transposition the super affirmative procedure must be used.

Amendment 129, page 39, line 13, leave out paragraphs 1 to 3 and insert—

"Scrutiny procedure: introductory

1 A statutory instrument containing regulations under section 7 may not be made by a Minister of the Crown unless it complies with the procedures in this Part.

Determination of scrutiny procedure

2 (1) The explanatory document laid with a statutory instrument or draft statutory instrument containing regulations under section 7 must contain a recommendation by the Minister as to which of the following should apply in relation to the making of an order pursuant to the draft order—

(a) the negative resolution procedure:

(b) the affirmative resolution procedure;

(c) the super-affirmative procedure.

(2) The explanatory document must give reasons for the Minister's recommendation.

(3) Where the Minister's recommendation is that the negative resolution procedure should apply, that procedure shall apply unless, within the 30-day period—

(a) either House of Parliament requires that the super-affirmative procedure shall apply, in which case that procedure shall apply; or

(b) in a case not falling within paragraph (a), either House of Parliament requires that the affirmative resolution procedure shall apply, in which case that procedure shall apply.

(4) Where the Minister's recommendation is that the affirmative resolution should apply, that procedure shall apply unless, within the 30-day period, either House of Parliament requires that the super-affirmative resolution procedure shall apply, in which case the super-affirmative resolution procedure shall apply.

(5) Where the Minister's recommendation is that the super-affirmative procedure should apply, that procedure shall apply.

(6) For the purposes of this paragraph a House of Parliament shall be taken to have required a procedure within the 30-day period if—

(a) that House resolves within that period that that procedure shall apply; or

(b) in a case not falling within paragraph (a), a committee of that House charged with reporting on the draft order has recommended within that period that that procedure shall apply and the House has not by resolution rejected that recommendation within that period.

Super-affirmative procedure

3 (1) for the purposes of this Part of this Schedule, the "super-affirmative resolution procedure" is as follows.

(2) The Minister must have regard to—

(a) any representations,

(b) any resolution of either House of Parliament, and

(c) any recommendations of a committee of either House of Parliament charged with reporting on the draft order,

made during the 60-day period with regard to the draft order.

(3) If, after the expiry of the 60-day period, the Minister wishes to make an order in the terms of the draft, he or she must lay before Parliament a statement—

(a) stating whether any representations were made; and

(b) if any representations were so made, giving details of them.

(4) The Minister may after the laying of such a statement make an order in the terms of the draft if it is approved by a resolution of each House of Parliament.

(5) However, a committee of either House charged with reporting on the draft order may, at any time after the laying of a statement under sub-paragraph (3) and before the draft order is approved by that House under sub-paragraph (4), recommend under this subparagraph that no further proceedings be taken in relation to the draft order.

(6) Where a recommendation is made by a committee of either House under subparagraph (5) in relation to a draft statutory instrument, no proceedings may be taken in relation to the draft statutory instrument in that House unless the recommendation is, in the same Session, rejected by resolution of that House.

(7) If, after the expiry of the 60-day period, the Minister wishes to make an order consisting of a version of the draft statutory instrument with material changes, he or she must lay before Parliament—

(a) a revised draft statutory instrument; and

(b) a statement giving details of—

(i) any representations made; and

(ii) the revisions proposed.

(8) The Minister may after laying a revised draft statutory instrument and statement under sub-paragraph (7) make regulations in the terms of the revised statutory instrument if it is approved by a resolution of each House of Parliament.

(9) However, a committee of either House charged with reporting on the revised draft statutory instrument may, at any time after the revised draft statutory is laid under sub-paragraph (7) and before it is approved by that House under sub-paragraph (8), recommend under this sub-paragraph that no further proceedings be taken in relation to the revised draft statutory instrument.

(10) Where a recommendation is made by a committee of either House under sub-paragraph (9) in relation to a revised draft statutory instrument, no proceedings may be taken in relation to the revised draft statutory instrument in that House under subsection (8) unless the recommendation is, in the same Session, rejected by resolution of that House.

(11) In this Part—

(a) the "30-day period" means the period of 30 days beginning with the day on which the draft statutory instrument was laid before Parliament;

(b) the "60-day period" means the period of 60 days beginning with the day on which the draft statutory instrument was laid before Parliament;

(c) the "affirmative resolution procedure" has the same meaning as in section 17 of the Legislative and Regulatory Reform Act 2006;

(d) the "negative resolution procedure" has the same meaning as in section 16 of the Legislative and Regulatory Reform Act 2006."

This amendment would ensure Parliament has the power to determine, following recommendations by the Minister, which parliamentary procedure should be used to scrutinise statutory instruments containing regulations that deal with deficiencies arising from EU withdrawal. It also provides for use of the "super-affirmative resolution procedure" whereby a committee of either House can recommend that no further proceedings be taken in relation to a draft order, which can only be over-turned by a resolution of that House.

Amendment 20, page 39, line 13, leave out

"which contain provisions falling with sub-paragraph (2)."

This amendment is linked to Amendment 21 and removes the provision that certain statutory instruments can be introduced under the negative resolution and requires all SIs made under Clause 7 to go through the affirmative route with a vote in both Houses. It means that the Government could not bypass Parliament by refusing to grant time for a debate on annulling an SI.

Amendment 216, page 39, line 14, after "unless" insert—

"(a) the Minister laying the instrument has made a declaration that the instrument does no more than necessary to prevent, remedy or mitigate—

(i) any failure of retained EU law to operate effectively, or

(ii) any other deficiency in retained EU law arising from the withdrawal of the United Kingdom from the EU, and

(b) ".

Amendment 21, page 39, line 17, leave out sub-paragraphs (2) and (3)

This amendment is linked to Amendment 20 and removes the provision that certain statutory instruments can be introduced under the negative resolution and requires all SIs made under Clause 7 to go through the affirmative route with a vote in both Houses. It means that the Government could not bypass Parliament by refusing to grant time for a debate on annulling an SI.

Amendment 33, page 39, line 17, after "if" insert

"a scrutiny committee determines that".

This amendment together with Amendments 34 and 35 would establish that it is for Parliament to decide which level of scrutiny a Statutory Instrument shall receive under Clause 7 of this Act, and that matters of policy interest will be subject to the approval of both Houses and to amendment.

Amendment 34, page 39, line 29, at end insert—

"(g) is otherwise of sufficient policy interest to merit the application of sub-paragraph (1)."

This amendment together with Amendments 33 and 35 would establish that it is for Parliament to decide which level of scrutiny a Statutory Instrument shall receive under Clause 7 of this Act, and that matters of policy interest will be subject to the approval of both Houses and to amendment.

Amendment 265, page 39, line 29, at end insert—

"(g) defines "failure to operate efficiently" under section 7(1A)."

This amendment, linked to Amendment 264, would ensure that any regulations to define "failure to operate efficiently" under section 7(1A) would be subject to affirmative procedure.

Amendment 3, page 39, line 30, leave out sub-paragraphs (3) to (10) and insert—

"(3) A Minister of the Crown must not make an Order under (1) and (2) above or any other Order to which this Schedule applies, unless—

(a) a draft Order and explanatory document has been laid before Parliament in accordance with paragraph 1A; and

(b) in the case of any Order which can be made other than solely by a resolution of each House of Parliament, the Order is made as determined under paragraph 1B in accordance in accordance with—

(i) the negative resolution procedure (see paragraph 1C); or

(ii) the affirmative resolution procedure (see paragraph 1D); or

(c) it is declared in the Order that it appears to the person making it that because of the urgency of the matter, it is necessary to make the Order without a draft being so approved (see paragraph 1E).

Draft Order and Explanatory document laid before Parliament

1A (1) If the minister considers it appropriate to proceed with the making of an Order under this Part, he must lay before Parliament—

(a) a draft of the Order, together with

(b) an explanatory document.

(2) The explanatory document must—

(a) explain under which power or powers in this Part the provision contained in the Order is made;

(b) introduce and give reasons for the provision;

(c) explain why the Minister considers that—

(i) in the case of an Order under section 7, include, so far as appropriate, an assessment of the extent to which the provision made by the Order would prevent, remedy or mitigate—any failure of retained EU law to operate effectively; or any other deficiency in retained EU law arising from the withdrawal of the United Kingdom from the EU,

(ii) in the case of an Order under section 8, include, so far as appropriate, an assessment of the extent to which the provision made by the Order would prevent or remedy any breach, arising from the withdrawal of the United Kingdom from the EU, of the international obligations of the United Kingdom,

(iii) in the case of an Order under section 9, include, so far as appropriate, an assessment of the extent to which implementation of the withdrawal agreement should be in force on or before exit day.

(d) identify and give reasons for—

(i) any functions of legislating conferred by the Order; and

(ii) the procedural requirements attaching to the exercise of those functions.

Determination of Parliamentary procedure

1B (1) The explanatory document laid with a draft Order under paragraph 1A must contain a recommendation by the Minister as to which of the following should apply in relation to the making of an Order pursuant to the draft Order—

(a) the negative resolution procedure (see paragraph 1C); or

(b) the affirmative resolution procedure (see paragraph 1D).

(2) The explanatory document must give reasons for the Minister's recommendation.

(3) Where the Minister's recommendation is that the negative resolution procedure should apply, that procedure shall apply unless, within the 20-day period either House of Parliament requires that the affirmative resolution procedure shall apply, in which case that procedure shall apply.

(4) For the purposes of this paragraph a House of Parliament shall be taken to have required a procedure within the 20-day period if—

(a) that House resolves within that period that that procedure shall apply; or

(b) in a case not falling within sub paragraph (4)(a), a committee of that House charged with reporting on the draft Order has recommended within that period that that procedure should apply and the House has not by resolution rejected that recommendation within that period.

(5) In this section the "20-day period" means the period of 20 days beginning with the day on which the draft Order was laid before Parliament under paragraph 1A.

Negative resolution procedure

1C (1) For the purposes of this Part, the "negative resolution procedure" in relation to the making of an Order pursuant to a draft order laid under paragraph 1A is as follows.

(2) The Minister may make an order in the terms of the draft Order subject to the following provisions of this paragraph.

(3) The Minister may not make an order in the terms of the draft Order if either House of Parliament so resolves within the 40-day period.

(4) For the purposes of this paragraph an Order is made in the terms of a draft Order if it contains no material changes to the provisions of the draft Order.

(5) In this paragraph the "40-day period" means the period of 40 days beginning with the day on which the draft Order was laid before Parliament under paragraph 1A.

Affirmative resolution procedure

1D (1) For the purposes of this Part the "affirmative resolution procedure" in relation to the making of an Order pursuant to a draft Order laid under paragraph 1A is as follows.

(2) The Minister must have regard to—

(a) any representations,

(b) any resolution of either House of Parliament, and

(c) any recommendations of a committee of either House of Parliament charged with reporting on the draft Order, made during the 40-day period with regard to the draft Order.

(3) If, after the expiry of the 40-day period, the minister wishes to make an Order in the terms of the draft, he must lay before Parliament a statement—

(a) stating whether any representations were made under sub-paragraph (2)(a); and

(b) if any representations were so made, giving details of them.

(4) The Minister may after the laying of such a statement make an Order in the terms of the draft if it is approved by a resolution of each House of Parliament.

(5) If, after the expiry of the 40-day period, the Minister wishes to make an Order consisting of a version of the draft Order with material changes, he must lay before Parliament—

(a) a revised draft Order; and

(b) a statement giving details of—

(i) any representations made under sub-paragraph (2)(a); and

(ii) the revisions proposed.

(6) The Minister may after laying a revised draft Order and statement under sub-paragraph (5) make an Order in the terms of the revised draft if it is approved by a resolution of each House of Parliament.

(7) For the purposes of sub-paragraphs (4) an Order is made in the terms of a draft Order if it contains no material changes to the provisions of the draft Order.

(8) In this paragraph the "40-day period" has the meaning given by paragraph 4(5)(a).

Procedure in urgent cases

1E (1) If an Order is made without being approved in draft, the person making it must lay it before Parliament, accompanied by the required information, after it is made.

(2) If, at the end of the period of one month beginning with the day on which the original Order was made, a resolution has not been passed by each House approving the original or replacement Order, the Order ceases to have effect.

(3) For the purposes of sub-paragraph (1), "required information" means—

(a) a statement of the reasons for proceeding under paragraph 1E; and

(b) an explanatory document, as set out in paragraph 1A (2)."

To set up a triage and scrutiny system under the control of Parliament for determining how Statutory Instruments under Clause 7 of the Bill will be dealt with.

Amendment 67, page 39, line 30, leave out sub-paragraph (3).

This amendment would facilitate the use of affirmative and super-affirmative procedures, other than for the transfer of functions of EU public bodies.

Amendment 35, page 39, line 33, at end insert

", unless a scrutiny committee determines that the instrument is of such significant policy interest that it ought to be subject to approval of each House with a procedure that allows for amendment."

This amendment together with Amendments 33 and 34 would establish that it is for Parliament to decide which level of scrutiny a Statutory Instrument shall receive under Clause 7 of this Act, and that matters of policy interest will be subject to the approval of both Houses and to amendment.

Amendment 392, page 39, line 33, at end insert—

"( ) See paragraph 2A for restrictions on the choice of procedure under sub-paragraph (3)."

This amendment signposts the existence, and location within the Bill, of a scrutiny process involving a committee of the House of Commons for regulations under Clause 7 for which there is a choice between negative and affirmative procedures.

Amendment 130, page 40, line 23, leave out sub-paragraphs (2) to (4) and insert—

"(2) The procedure provided for in paragraphs 1 to 3 of this Part in respect of the Houses of Parliament applies in relation to regulations to which this paragraph applies as well as any other procedure provided for by this paragraph which is applicable to the regulations concerned."

This amendment applies the procedures set out in Amendment 129 in respect of the UK Parliament for regulations made jointly by a Minister of the Crown acting jointly with a devolved authority.

Amendment 4, page 40, line 32, leave out from "is" to end of line 34 and insert

"subject to the rules set out in paragraphs 1 to 1E above."

Consequential amendment to Amendment 3.

Amendment 393, page 42, line 4, at end insert—

"Parliamentary committee to sift certain regulations involving Minister of the Crown

2A (1) Sub-paragraph (2) applies if a Minister of the Crown who is to make a statutory instrument to which paragraph 1(3) applies is of the opinion that the appropriate procedure for the instrument is for it to be subject to annulment in pursuance of a resolution of either House of Parliament.

(2) The Minister may not make the instrument so that it is subject to that procedure unless—

(a) condition 1 is met, and

(b) either condition 2 or 3 is met.

(3) Condition 1 is that a Minister of the Crown—

(a) has made a statement in writing to the effect that in the Minister's opinion the instrument should be subject to annulment in pursuance of a resolution of either House of Parliament, and

(b) has laid before the House of Commons—

(i) a draft of the instrument, and

(ii) a memorandum setting out the statement and the reasons for the Minister's opinion.

(4) Condition 2 is that a committee of the House of Commons charged with doing so has made a recommendation as to the appropriate procedure for the instrument.

(5) Condition 3 is that the period of 10 sitting days beginning with the first sitting day after the day on which the draft instrument was laid before the House of Commons as mentioned in sub-paragraph (3) has ended without any recommendation being made as mentioned in sub-paragraph (4).

(6) In sub-paragraph (5) "sitting day" means a day on which the House of Commons sits.

(7) Nothing in this paragraph prevents a Minister of the Crown from deciding at any time before a statutory instrument to which paragraph 1(3) applies is made that another procedure should apply in relation to the instrument (whether under paragraph 1(3) or 3).

(8) Section 6(1) of the Statutory Instruments Act 1946 (alternative procedure for certain instruments laid in draft before Parliament) does not apply in relation to any statutory instrument to which this paragraph applies."

This amendment ensures that regulations under Clause 7 for which there is a choice between negative and affirmative procedures cannot be subject to the negative procedure without first having been subject to a scrutiny process involving a committee of the House of Commons. The scrutiny process envisages that the committee will make a recommendation as to the appropriate procedure in the light of draft regulations and other information provided by the Government.

Amendment 394, page 42, line 31, at end insert—

"(7) Sub-paragraph (8) applies to a statutory instrument to which paragraph 1(3) applies where the Minister of the Crown who is to make the instrument is of the opinion that the appropriate procedure for the instrument is for it to be subject to annulment in pursuance of a resolution of either House of Parliament.

(8) Paragraph 2A does not apply in relation to the instrument if the instrument contains a declaration that the Minister is of the opinion that, by reason of urgency, it is necessary to make the regulations without meeting the requirements of that paragraph."

This amendment permits the scrutiny process for deciding whether certain regulations under Clause 7 should be subject to the negative or affirmative procedure to be disapplied in urgent cases.

Amendment 36, page 43, line 3, after "if" insert

"a scrutiny committee determines that".

This amendment together with Amendments 37 and 38 would establish that it is for Parliament to decide which level of scrutiny a Statutory Instrument shall receive under Clause 8 of this Bill, and that matters of policy interest will be subject to the approval of both Houses and to amendment.

Amendment 37, page 43, line 15, at end insert—

"(g) is otherwise of sufficient policy interest to merit the application of sub-paragraph (1)".

This amendment together with Amendments 36 and 38 would establish that it is for Parliament to decide which level of scrutiny a Statutory Instrument shall receive under Clause 8 of this Bill, and that matters of policy interest will be subject to the approval of both Houses and to amendment.

Amendment 22, page 43, line 19, at end insert

"or if the Government has not provided time on the floor of the House for a debate and vote on a prayer against the statutory instrument signed by the Leader of the Opposition or 80 Members of the House of Commons."

This would mean that if the Leader of the Opposition or 80 members of the House of Commons were to sign a prayer against an SI that was subject under Schedule 7 to the negative procedure, the Government would have to provide time for a debate and a vote on the floor of the House or lose the SI. At present there is no such provision in the House of Commons.

Amendment 38, page 43, line 19, at end insert

",unless a scrutiny committee determines that the instrument is of such significant policy interest that it ought to be subject to approval of each House with a procedure that allows for amendment."

This amendment together with Amendments 36 and 37 would establish that it is for Parliament to decide which level of scrutiny a Statutory Instrument shall receive under Clause 8 of this Bill, and that matters of policy interest will be subject to the approval of both Houses and to amendment.

Amendment 395, page 43, line 19, at end insert—

"( ) See paragraph 10A for restrictions on the choice of procedure under sub-paragraph (3)."

This amendment signposts the existence, and location within the Bill, of a scrutiny process involving a committee of the House of Commons for regulations under Clause 8 for which there is a choice between negative and affirmative procedures.

Amendment 23, page 43, line 26, leave out

"which contain provisions falling within sub-paragraph (2)."

This amendment is linked to Amendment 24 and removes the provision that certain statutory instruments can be introduced under the negative resolution and requires all SIs under Clause 9 to go through the affirmative route with a vote in both Houses. It means that the Government could not bypass Parliament by refusing to grant time for a debate on annulling an SI.

Amendment 24, page 43, line 30, leave out sub-paragraph (2).

This amendment is linked to Amendment 23 and removes the provision that certain statutory instruments can be introduced under the negative resolution and requires all SIs under Clause 9 to

go through the affirmative route with a vote in both Houses. It means that the Government could not bypass Parliament by refusing to grant time for a debate on annulling an SI.

Amendment 39, page 43, line 30, after "if" insert "a scrutiny committee determines that".

This amendment together with Amendments 40 and 41 would establish that it is for Parliament to decide which level of scrutiny a Statutory Instrument shall receive under Clause 9 of this Bill, and that matters of policy interest will be subject to the approval of both Houses and to amendment.

Amendment 40, page 43, line 43, at end insert—

"(h) is otherwise of sufficient policy interest to merit the application of sub-paragraph (1)."

This amendment together with Amendments 39 and 41 would establish that it is for Parliament to decide which level of scrutiny a Statutory Instrument shall receive under Clause 9 of this Bill, and that matters of policy interest will be subject to the approval of both Houses and to amendment.

Amendment 41, page 43, line 47, at end insert ", unless a scrutiny committee determines that the instrument if of such significant policy interest that it ought to be subject to approval of each House with a procedure that allows for amendment."

This amendment together with Amendments 39 and 40 would establish that it is for Parliament to decide which level of scrutiny a Statutory Instrument shall receive under Clause 9 of this Bill, and that matters of policy interest will be subject to the approval of both Houses and to amendment.

Amendment 396, page 43, line 47, at end insert—

"( ) See paragraph 10A for restrictions on the choice of procedure under sub-paragraph (3)."

This amendment signposts the existence, and location within the Bill, of a scrutiny process involving a committee of the House of Commons for regulations under Clause 9 for which there is a choice between negative and affirmative procedures.

Amendment 374, page 44, line 5, at end insert—

"Amendment of definition of "law relating to equality or human rights"

6A A statutory instrument containing regulations of a Minister of the Crown under section 14(7) may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament."

This amendment provides for draft affirmative resolution scrutiny for the power to the definition of "law relating to equality or human rights", inserted by Amendment 371.

Amendment 397, page 45, line 11, at end insert—

"Parliamentary committee to sift certain regulations involving Minister of the Crown

10A (1) Sub-paragraph (2) applies if a Minister of the Crown who is to make a statutory instrument to which paragraph 5(3) or 6(3) applies is of the opinion that the appropriate procedure for the instrument is for it to be subject to annulment in pursuance of a resolution of either House of Parliament.

(2) The Minister may not make the instrument so that it is subject to that procedure unless—

(a) condition 1 is met, and

(b) either condition 2 or 3 is met.

(3) Condition 1 is that a Minister of the Crown—

(a) has made a statement in writing to the effect that in the Minister's opinion the instrument should be subject to annulment in pursuance of a resolution of either House of Parliament, and

(b) has laid before the House of Commons—

(i) a draft of the instrument, and

(ii) a memorandum setting out the statement and the reasons for the Minister's opinion.

(4) Condition 2 is that a committee of the House of Commons charged with doing so has made a recommendation as to the appropriate procedure for the instrument.

(5) Condition 3 is that the period of 10 sitting days beginning with the first sitting day after the day on which the draft instrument was laid before the House of Commons as mentioned in sub-paragraph (3) has ended without any recommendation being made as mentioned in sub-paragraph (4).

(6) In sub-paragraph (5) "sitting day" means a day on which the House of Commons sits.

(7) Nothing in this paragraph prevents a Minister of the Crown from deciding at any time before a statutory instrument to which paragraph 5(3) or 6(3) applies is made that another procedure should apply in relation to the instrument (whether under that paragraph or paragraph 11).

(8) Section 6(1) of the Statutory Instruments Act 1946 (alternative procedure for certain instruments laid in draft before Parliament) does not apply in relation to any statutory instrument to which this paragraph applies."

This amendment ensures that regulations under Clause 8 or 9 for which there is a choice between negative and affirmative procedures cannot be subject to the negative procedure without first having been subject to a scrutiny process involving a committee of the House of Commons. The scrutiny process envisages that the committee will make a recommendation as to the appropriate procedure in the light of draft regulations and other information provided by the Government.

Amendment 398, page 45, line 40, at end insert—

"(7) Sub-paragraph (8) applies to a statutory instrument to which paragraph 5(3) or 6(3) applies where the Minister of the Crown who is to make the instrument is of the opinion that the appropriate procedure for the instrument is for it to be subject to annulment in pursuance of a resolution of either House of Parliament.

(8) Paragraph 10A does not apply in relation to the instrument if the instrument contains a declaration that the Minister is of the opinion that, by reason of urgency, it is necessary to make the regulations without meeting the requirements of that paragraph."

This amendment permits the scrutiny process for deciding whether certain regulations under Clause 8 or 9 should be subject to the negative or affirmative procedure to be disapplied in urgent cases.

Government amendment 391.

Amendment 207, in clause 17, page 13, line 35, leave out "appropriate" and insert "necessary".

Amendment 208, page 14, line 7, leave out "appropriate" and insert "necessary".

Amendment 373, page 14, line 13, at end insert—

"(8) Regulations under subsection (1) or (5) may not amend, repeal or revoke, or otherwise modify the effect of, any law relating to equality or human rights."

This amendment would replicate, for the powers in clause 17, the equality and human rights restrictions on other powers in this Bill (as modified by other amendments).

Amendment 205, in clause 8, page 6, line 28, leave out "appropriate" and insert "necessary".

Amendment 110, page 6, line 31, leave out subsection (2)

This amendment seeks to restrict the delegated powers granted to Ministers by Clause 8.

Amendment 31, page 6, line 32, at end insert ", apart from amending or modifying this Act".

This amendment would remove the proposed capacity of Ministers in Clause 8 to modify and amend the Act itself via delegated powers.

Amendment 365, page 6, line 36, leave out "or"

This amendment is preparatory to Amendment 367.

Amendment 366, page 6, line 37, after "revoke", insert ", or otherwise modify the effect of,"

This amendment would ensure that the restriction in this paragraph could not be undermined by the use of legislation which does not amend the text of the Human Rights Act but modifies its effect.

Amendment 367, page 6, line 38, at end insert ", or

(e) amend, repeal or revoke, or otherwise modify the effect of, any other law relating to equality or human rights.".

This amendment would broaden the restriction in this subsection to protect all legislation relating to equality and human rights (and not only the Human Rights Act 1998).

Amendment 12, page 6, line 38, at end insert—

"(e) make any provision, unless the Minister considers that the conditions in subsection (3A) where relevant are satisfied in relation to that provision.

(3A) Those conditions are that—

(a) the policy objective intended to be secured by the provision could not be secured by non-legislative means;

(b) the effect of the provision is proportionate to the policy objective;

(c) the provision, taken as a whole, strikes a fair balance between the public interest and the interests of any person adversely affected by it;

(d) the provision does not remove any necessary protection;

(e) the provision does not prevent any person from exercising any right or freedom which that person might reasonably expect top continue to exercise;

(f) the provision is not of constitutional significance"

Amendment 26, in clause 8, page 6, line 38, at end insert—

"(e) remove or reduce any protections currently conferred upon individuals, groups or the natural environment,

(f) prevent any person from continuing to exercise a right that they can currently exercise,

(g) amend, repeal or revoke the Equality Act 2010 or any subordinate legislation made under that Act."

This amendment would prevent the Government's using delegated powers under Clause 8 to reduce rights or protections.

Amendment 97, page 6, line 38, at end insert—

"(e) limit the scope or weaken standards of environmental protection."

This Amendment ensures that the power to make regulations in Clause 8 may not be exercised to reduce environmental protection.

Amendment 111, page 6, line 38, at end insert—

"(e) amend, repeal or revoke any legal right derived from EU law and operative in UK law immediately before 30 March 2019."

This amendment seeks to prevent the delegated powers granted to Ministers by clause 8 being used to weaken or abolish existing EU-derived legal rights, such as those on workers' rights, equality, and environmental protection.

Amendment 267, page 6, line 38, at end insert—

"(e) amend, repeal or revoke the Equality Act 2010 or any subordinate legislation made under it."

This amendment would prevent the powers in Clause 8 being used to amend Equality Act 2010 legislation.

Amendment 270, page 6, line 38, at end insert—

"(e) remove, reduce or otherwise limit the rights of EU citizens resident in the UK."

This amendment would prevent the powers in Clause 8 being used to remove, reduce or otherwise limit the rights of EU citizens resident in the UK.

Amendment 273, page 6, line 38, at end insert—

"(e) make provision which, in the opinion of the Minister, could pose a threat to national security."

This amendment would prevent the powers in Clause 8 being used to make provision which could pose a threat to national security.

Amendment 371, in clause 14, page 10, line 26, at end insert—

""law relating to equality or human rights" means—

(a) the Equality Acts 2006 and 2010;

(b) the Human Rights Act 1998; and

(c) other enactments relating to equality or human rights."

This amendment defines "law relating to equality or human rights" for the purposes of other amendments which would broaden protection provided by the Bill from interference with the Human Rights Act to include other provisions about human rights and equality.

Amendment 372, page 11, line 48, at end insert—

"(7) The Secretary of State may by regulations amend or modify the definition of "law relating to equality or human rights" in subsection (1)."

This amendment would allow Ministers to amend the definition of "law relating to equality or human rights" inserted by Amendment 371.

New clause 76—*Non-regression of equality law*—

"(1) Any EU withdrawal related legislation must be accompanied by a statement made by a Minister of the Crown certifying that in the Minister's opinion the legislation does not remove or reduce protection under or by virtue of the Equality Acts 2006 and 2010.

(2) In subsection (1) "EU withdrawal related legislation" means—

(a) any statutory instrument under this Act;

(b) any statutory instrument made by a Minister of the Crown wholly or partly in connection with the United Kingdom's withdrawal from the EU; and

(c) any Bill presented to Parliament by a Minister of the Crown which is wholly or partly connected to the United Kingdom's withdrawal from the EU."

This new clause would ensure that legislation in connection with withdrawal from the EU does not reduce protections provided by equality law.

New clause 77—*Co-operation with the European Union on violence against women and girls*—

"(1) Within one month of Royal Assent to this Act, and then once in every subsequent calendar year, the Secretary of State shall lay before Parliament a report on continued co-operation with the European Union on matters relating to violence against women and girls.

(2) That report must include, in particular, an assessment of how, following exit day, co-operation with the European Union will replicate mechanisms which exist within the European Union before exit day to—

(a) maintain common rights for victims of domestic and sexual abuse when moving across borders,

(b) reduce female genital mutilation (FGM),

(c) reduce human trafficking,

(d) reduce child sexual exploitation, and

(e) enable data sharing relating to any of (a) to (d).

(3) The first report made under subsection (1) following Royal Assent must—

(a) include an assessment of the amount and nature of funding provided by European Union institutions to organisations based in the United Kingdom for the purposes of research, service provision, and other activity relating to ending violence against women and girls, and;

(b) outline plans to provide comparable resources for research, service provision, and other activity relating to ending violence against women and girls in the United Kingdom."

This new clause calls for the Government to lay a report before Parliament laying out how cross-border action to end violence against women and girls will continue after exit day, assessing the extent of current European Union funding for work to end violence against women and girls, and setting out the Government's plans to provide comparable resources.

Mr Leslie: I thought for a minute, Mrs Laing, that you were going to read out all the amendments grouped today, which might have taken up some considerable time.

Today's debate is about taking back control—about Parliament and the powers of the House of Commons to hold the Executive to account and to overrule it if we wish to do so. New clause 18 essentially says that it is time for the Government to be honest about the extensive and wide-ranging powers they want to take away from Parliament, which essentially is what the Bill proposes to do. Some might say that my new clause does not go far enough, that it is a little tepid: it simply says that the Government ought to commission a proper independent report into the constitutional ramifications and implications of their proposal. In my view, they have not thought the process through properly. They denied the House a pre-legislative scrutiny process for the Bill and, importantly, ignored an extremely detailed and thoughtful report and set of recommendations from the House of Lords Constitution Committee, which went into painstaking detail to review Ministers' proposals, particularly those in clause 7. It also did so with respect to clause 9—we will not be voting on aspects of clause 9 today, but certain amendments to it have been grouped for discussion.

I accept that if we leave the EU, the acquis—the body of existing EU law—will need to be converted into UK law. We were told, of course, that the Bill was supposed to be a simple "copy and paste" exercise that merely transposed those EU rules under which we have lived for the past 30 or 40 years into UK law. Despite the early recommendations from the House of Lords Constitution Committee, made long before publication of the Bill, back in March, Ministers have made a real error in failing to distinguish between the technical and necessary task of transposing existing laws from EU to UK statute and the wider powers that Ministers are taking potentially to make substantive policy changes, by order, in areas that currently fall within EU competence. In other words, they have not sought to curtail the order-making powers simply to focus on that transposition exercise. The order-making powers go far wider into a whole array of policy making areas.

Mr Jim Cunningham (Coventry South) (Lab): We were told that we were bringing powers back to this Parliament so that this Parliament could take decisions. Why, then, are the Government trying to introduce something similar to the Henry VIII clause? Does it not make a mockery of their promises?

Mr Leslie: Exactly. People voting in the referendum might have been moved by that slogan "take back control", but I do not honestly think many voters thought that that meant taking back control from a European Executive and handing it to Ministers of the Crown, outwith the powers and scope of Parliament to do much about it, yet that is effectively the proposal in clause 7.

I want to emphasise that this is not simply an exercise in transposing technical and necessary measures. The Government have extended the scope of the Bill into policy-making capability, which brings in the question of divergence. We have heard a lot recently about concepts of full alignment and this notion of diverging from rules and policies. The way clauses 7 and 9 have been drafted would allow Ministers, by order, through negative statutory instruments that we rarely get the chance even to vote on in this place, to make policy changes that could affect policy functions and the rights of our constituents—perhaps as part of a deregulating agenda—if that is indeed what the Government of the day sought to achieve.

Mary Creagh (Wakefield) (Lab): My hon. Friend, like me, will have read in the newspapers about the Cabinet split opening up on divergence, with various Cabinet Ministers backing divergence and others not. How does he think this squares with the Prime Minister's promise to our European partners and the Government of the Republic of Ireland that we will stay in full regulatory alignment after we leave?

Mr Leslie: I suspect that the European Commission and the Republic of Ireland Government saw the phrase "full alignment" and thought that full alignment meant full alignment. It turns out from the Prime Minister's statement yesterday that full alignment does not quite mean full alignment. She said it only meant aligning the areas in the Good Friday agreement protocol, but of course that predates the notion of our leaving the single market and the customs union, so the Good Friday agreement did not cover such narrow issues—I say that sarcastically—as goods and manufacture trade. The list of issues that she thinks full alignment covers does not include trade in goods, which is a staggering thing, because of course if we do not cover trade in goods, we end up with that hard border, which is absolutely the point we have got to.

Mary Creagh *rose—*

Mr Leslie: I do not want to digress at this stage. I want to focus particularly on the powers that Ministers are taking in clause 7, if my hon. Friend will allow me to do so.

John Redwood (Wokingham) (Con) *rose—*

Mr Leslie: I cannot resist.

John Redwood: Ministers have assured us that if they want to change policy—if, for instance, they see a need for a new fishing policy, or a new customs and trade policy—there will be primary legislation and full parliamentary debates in both Houses. Does the hon. Gentleman not understand that? We are dealing with a very narrow set of provisions, relating only to statutory instruments to deal with technical matters which, of course, the House can ultimately determine in any event.

Mr Leslie: It is touching that the right hon. Gentleman takes those assurances from Ministers at face value, but the Ministers may not be here for very much longer. Who knows? If we are going to make policy changes, that should be done in a Bill that comes before Parliament, or in a statutory instrument subject to affirmative resolution.

[Mr Leslie]

I now invite Members to pick up their copies of the Bill, because I want to deal with a couple of provisions in clause 7 which I think contradict the understanding of the right hon. Member for Wokingham (John Redwood) of the scope of the order-making powers that are being taken. It is, in fact, fairly wide. Clause 7(4) states:

"*Regulations under this section may make any provision that could be made by an Act of Parliament.*"

In other words, a provision in a statutory instrument could have the same effect as one in primary legislation.

Mr Dominic Grieve (Beaconsfield) (Con): When statutes are being considered and Bills are being drafted, there does on occasion come a point at which we must accept that assurances given, for example, at the Dispatch Box will have to complement the inevitable small grey areas. However, that should not prevent us as a Parliament from scrutinising legislation and insisting that, so far as possible, it is drafted in conformity with the purpose for which the Government say that they intend to use it.

Mr Leslie: That is why Members often say in the House, "Let us place it on the face of the Bill", which means "Let us put in writing, in black and white, something that can then be held up in a court of law", rather than a mere verbal promise from a Minister who, as I have said, could be here today and gone tomorrow. These things matter, and if we are to do our job properly we need to get our statute right.

It is not an exaggeration that clause 7(4) represents a massive potential transfer of legislative competence from Parliament to Government. It is a sweeping power that would make Henry VIII blush if he were to see it today. My amendment 57 would delete the sweeping nature of clause 7(4), because Ministers have not ensured that their powers are as limited as possible; on the contrary, they have ensured that they are as exceptionally wide as possible.

Tom Brake (Carshalton and Wallington) (LD): The right hon. Member for Wokingham (John Redwood) referred to Bills relating to, for instance, trade and customs. Does the hon. Gentleman agree that that those Bills are very likely to contain the very same Henry VIII powers?

Mr Leslie: Indeed. There are, I think, eight pieces of subsequent legislation which are also opening up this precedent. Effectively, Members of Parliament are being patted on the head and told, "Do not trouble yourselves. We will sort out all these areas of policy. We will just go away and if you really object, you can petition us about it." That is not good enough.

Let me now turn to clause 9. We are not voting on it today, but the grouping of the amendments allows us to discuss issues relating to it. Subsection (2) states:

"*Regulations under this section may make any provision that could be made by an Act of Parliament (including modifying this Act).*"

If, having gone through all the rigmarole of debating the proposals that are before us today and made all sorts of promises, Ministers then say, after Royal Assent, "Actually, we did not like that bit of the Act", they will be taking order-making powers to amend this very provision.

Hilary Benn (Leeds Central) (Lab): It is not just a question of assurances given from the Dispatch Box. In clause 9, Ministers are proposing to take a power that would enable them, after the event, to get rid of what they have described as safeguards in the Bill if they feel like it, by means of the mechanisms provided in that clause. Does that not undermine the confidence that the House can have in those safeguards, given that they may no longer be in the text of the Bill when it becomes an Act?

Mr Leslie: It is almost an Alice in Wonderland "down the rabbit hole" concept: the notion that we are passing an Act that hands powers to Ministers to amend not just any other Act of Parliament, but the Act itself. It is completely ridiculous. I know that Conservative Members will say I am making the point because I am sceptical about Brexit or something, but this is a constitutional issue. It is about ensuring that Parliament is sovereign, and that Members of Parliament can override the executive and curtail excessive behaviour. I shall be astonished if clause 9(2) is still there after Royal Assent, because if the House of Commons does not deal with it, the other place will certainly have to do so.

Mr Bernard Jenkin (Harwich and North Essex) (Con): I have some sympathy with the points that the hon. Gentleman is making, but why did he not raise these objections when his own party was passing legislation that could be self-amending in exactly the same way, without a sunset clause—for example, the Scotland Act 1998?

Mr Leslie: I am not sure whether there is anything comparable to the sweeping nature of the policy scope of a Bill that says that order-making powers can include powers to modify the Act itself.

Mr Jenkin: There is the Scotland Act!

Mr Leslie: If that is indeed the case, two wrongs do not make a right, but I do not think that any other provision is quite as extensive as this. The hon. Gentleman's loyalty to the Government knows no bounds—he has to come to their defence, because it is important for someone to do so—but I think that, in this particular instance, even he may be slightly embarrassed by quite how far Ministers have gone.

Clause 7(1) states:

"A Minister of the Crown may by regulations make such provision as the Minister considers appropriate".

The term "appropriate" is entirely undefined, and it is the only condition imposed on the Minister's desire to address "deficiencies" in the law. The House of Lords Constitution Committee has said:

"This application of a subjective test to a broad term like 'deficiency' makes the reach of the provision potentially open-ended."

The Government tabled amendment 391 to try to ameliorate some of the concern about that, but it barely constitutes a concession. It merely requires Ministers to make explanatory statements that provisions are "appropriate" in order to justify the order-making power.

It is because it is so broad that I tabled amendment 65, which would at least shift the subjective threshold from "appropriate" to "necessary". I believe that requiring Ministers to feel that a regulation is necessary would present them with a stronger test and a higher threshold. It would allow them to retain fairly broad powers, but I think that it would provide an extra safeguard. A Minister may think that something is appropriate without having to justify it, and I feel that we should expect more in a Bill such as this. The Constitution Committee has also said:

> "We proposed that 'a general restriction on the use of delegated powers' could be achieved using 'a general provision … placed on the face of the Bill to the effect that the delegated powers granted by the Bill should be used only so far as necessary to adapt the body of EU law to fit the UK's domestic legal framework'".

I followed that advice by tabling amendment 65.

Clause 7(2) implies that the scope of the Henry VIII powers are not exhaustive at all.

That subsection begins with the phrase:

> "Deficiencies in retained EU law include (but are not limited to) where the Minister considers that retained EU law"

does x, y and z, and it goes on to set out a series of particular conditions.

The right hon. and learned Member for Beaconsfield (Mr Grieve) has also spotted this issue in his amendment 1, and this caveat does not have to be limited to the exceptions set out in clause 7. Again, that provision is too broad and gives too much power to Ministers. Ministers might well say, "Well, it's not our intention to go beyond the list of prescribed areas in clause 7", but the Bill as drafted does not constrain their successors; as I have said, there will, of course, always be further Ministers after the current ones have moved on.

1.30 pm

Mr Grieve: Does the hon. Gentleman agree that those who draft legislation go off to Government Departments, show the draft and ask whether that covers all the things that need to be covered, and are then inevitably told that the Department is worried that something has not been covered? Perhaps this should be an encouragement to those on the Treasury Bench to go away and think again about whether the list they have produced is not in reality exhaustive. If it is not, perhaps they would like to identify during today's debate where they think there might be these extra powers that take them beyond the limits they have listed.

Mr Leslie: The right hon. and learned Gentleman and any other Member who has had the privilege of serving as a Minister will know exactly what civil servants will advise, which is, "Well, you don't know the exact circumstances, so seek as wide a power as you can possibly get away with through Parliament, if it will turn a blind eye to it. We can deal with the consequences thereafter."

Unfortunately for them, Ministers will not be able to get away with that on this occasion, because we have spotted this land grab attempt. It is not appropriate; if they feel that there should be exceptions or that certain circumstances should be accounted for, those must be set out in the Bill, not just left in these current loose terms.

Current Ministers might feel that they are responsible stewards of Government, but I invite hon. Members to imagine circumstances in which we end up with a malign Government of some sort, shape or variety, such as some sort of extreme Administration—who knows what might happen in years to come? These Henry VIII powers are extremely sweeping. They will be available to Ministers in years to come and could leave the door open to some quite arbitrary near-autocratic actions of a future Government.

For example, if a future Government sought to lift the 48-hour working week provisions that EU law currently gives to employees in this country, Ministers would by order potentially have the scope to do that under the powers in clauses 7 and 9. If Ministers wanted to require the banking sector to have more capital requirements under these provisions, they would be able to simply make those orders. If Ministers wanted some sort of aggressive or inappropriate state intervention to distort competition, favouring one producer over others, they would be able to do that through the provisions on these order-making powers.

Chris Stephens (Glasgow South West) (SNP): Does the hon. Gentleman agree that there is a real concern across the UK in relation to workers' rights, particularly as many in government at present were saying during the EU referendum campaign that the roll-back of workers' rights was one of the reasons why they advocated a leave vote in the first place?

Mr Leslie: The Bill's provisions are so wide-ranging that the protections that our constituents have enjoyed to this day as a result of European regulations and rights could be at risk—not from Parliament, but from a ministerial sweep of the pen, through the making of an order: a negative statutory instrument.

Mr Jim Cunningham: We had a good test of that some time ago in relation to trade union rights, through what the Government did to the Trade Union Bill during its passage through Parliament. Does my hon. Friend agree that the big test will be something the Government are being evasive about: will this Parliament get the final vote? We were told during the referendum campaign that Parliament would have its say and everything would be brought back here, yet the Government are doing everything in their power to avoid giving Parliament the final vote on this.

Mr Leslie: The offer from the Government has been a binary yes or no motion at some point when we see the withdrawal agreement, and then—potentially after the fact, post-signature by Ministers—a Bill later on down the line. That is obviously not good enough, but we will come to many of those issues in tomorrow's debates. For now, there are further deficiencies in the way clause 7 has been drafted to be addressed.

Clause 7(5) talks about the functions and public services that the regulations can amend. The right hon. and learned Member for Beaconsfield has spotted in amendment 5, as I have in amendment 61, that these powers could allow Ministers to sweep away a public service function currently undertaken by an EU agency without making alternative provisions; Ministers have talked about a function being not only "replaced" or

[Mr Leslie]

"modified", but "abolished". Ridiculously, Ministers have snuck in this phrase, under which by order they can abolish a whole area of public service activity through the powers they are granting themselves in subsection (5). That could affect lots of obscure and small areas of public policy that do not matter to all our constituents but will certainly matter to some, including chemical safety certification, medicine risk assessment activities, aircraft airworthiness, preparedness for disease prevention and control, aeronautic research, energy market trading, and maritime pollution.

There are lots of functions that EU agencies currently fulfil. Some Members might say that they should be fulfilled within the UK, which is a perfectly good argument, but clause 7 would allow Ministers to abolish those functions entirely by order. I do not believe that is appropriate, and that is why I think amendment 61 and certainly amendment 5 are necessary.

Mary Creagh: My hon. Friend has talked about the many agencies that we currently rely on to regulate all manner and aspects of our national life, but he has neglected to mention the regulatory and enforcement functions carried out by the European Commission and the European Court of Justice. Does he share my concern that, particularly in the environmental sphere—which I will talk about in my speech—removing the Commission as an enforcement body could be very detrimental to standards in all areas of regulation?

Mr Leslie: My hon. Friend has done important work as Chair of the Environmental Audit Committee on some of these questions. These are not small matters; they are important functions that over the years we have developed and grown to expect. Some of them are provided by EU agencies, but they should not be able to be abolished simply by order—by the sweep of a ministerial pen—without reference to this place and without the House of Commons having some ability to decide.

Angela Smith (Penistone and Stocksbridge) (Lab): Does my hon. Friend agree that the Government might well find other ways of delivering these functions, but the key point is independence? We need the authorities that deliver these safeguards and regulatory activities to be independent of Government and to be accountable to the people.

Mr Leslie: Indeed, and there are good arguments for having independent provision of many of these assessments. We might feel that many regulatory activities currently undertaken by EU agencies need to be undertaken by our regulators here in the UK, rather than being brought into a Government departmental function, to give them that further arm's-length independent status. I want to talk about some aspects of that shortly.

I want to make reference, too, to the Procedure Committee's set of amendments that the hon. Member for Broxbourne (Mr Walker) and others have tabled to try to deal with what could be thousands of negative statutory instruments—orders by Ministers that do not automatically come up for a vote in the House of Commons. I totally respect the work of the Procedure Committee, and it is important that it has gone through this process, but I do not believe that the proposed committee would be an adequate safeguard. I do not believe that it would fulfil the concept of what a sifting committee ought to be.

We need a Committee of the House that can look through the hundreds of statutory instruments that are currently not for debate and be able to pick them out and bring them forward for an affirmative decision. The Procedure Committee's amendments would not quite do that; they would simply create a committee able to voice its opinion about the designation of an order as a negative statutory instrument. That could be overruled or ignored by Ministers. Indeed, if a Minister were to designate such a negative statutory instrument as urgent, it would not even need to be referred to that committee. That is a pretty low threshold, and a pretty weak concession.

Chris Bryant (Rhondda) (Lab): Is it my hon. Friend's understanding that the committee would have an automatic Conservative party majority, because of the changes to Standing Orders?

Mr Leslie: I am not sure whether such a provision exists. Perhaps members of the Procedure Committee will have a view on that. I certainly think that that would be unfortunate.

Helen Goodman (Bishop Auckland) (Lab): We will look at the composition when we look at the Standing Orders. It is not covered in the contents of the amendments today, but people will have an opportunity to debate that issue on another occasion.

Mr Leslie: That is true, but it deserves to be debated today as well. If we are creating a committee, it is perfectly legitimate to argue that we need to know whether it will have teeth and exercise bite, or whether it will be reluctant to do so. The question that my hon. Friend the Member for Rhondda (Chris Bryant) asked about its composition is perfectly reasonable.

Chris Bryant: For that matter, the Procedure Committee has regularly suggested changes to Standing Orders that the Government have refused to move forward. I have seen the right hon. Member for Broxbourne more furious than anyone else in the Chamber because the Government have refused to act on that, so it is inadequate to suggest that Standing Orders might make arrangements in this regard.

Mr Leslie: My hon. Friend's point is well made. Again, it goes to show that if we are to assert ourselves as the House of Commons and create a committee to deal with this flood of negative statutory instruments, that needs to be done in a way that has teeth. We will debate the Bill and kick it around and it will go to the House of Lords, but we need to ensure that it has teeth when it comes back.

Several hon. Members *rose—*

Mr Leslie: I am conscious that a lot of Members want to speak, and I want to get to the end of my remarks.

There are other issues relating to the standard of scrutiny, and perhaps the Procedure Committee will want to think about them as well. Currently, when regulatory policy issues are decided in Europe by EU

directive or regulation, the European Parliament—to which our constituents have been able to elect people—has a quite large set of scrutiny and decision-making powers over those laws. If we are moving the law-making power from the EU to the UK, surely we should also replicate the level of scrutiny that those laws received from the European Parliament and have that same arrangement in the UK Parliament. That is not happening in the Bill, however, which is why amendment 277 has been tabled.

I was partly inspired by conversations with the Association of British Insurers, which is concerned about the potential to lose a level of scrutiny as the policy-making powers are transferred across. The UK Parliament's ability to scrutinise some of these things is not as tough as that of the EU Parliament. The ABI has said that it supports amendment 277, which states that any additional powers transferred to the UK regulators must be matched by equivalent scrutiny mechanisms and democratic accountability. That is not a small point, because a massive array of issues is coming at us thick and fast in clauses 7 and 9, and they have to be mentioned.

Finally, I want to touch on amendment 124, which has been tabled in the name of the right hon. Member for Carshalton and Wallington (Tom Brake). It would prevent regulations from undermining the operation of the single market. The Government have conceded that we are, de facto, going to remain in the single market and the customs union, certainly during the transition phase. It is important that protections should be in place to ensure that orders made by Ministers cannot erode those single market freedoms that we enjoy during the transition period.

Also, if we end up—as I suspect we should—staying in the single market and the customs union, we do not want anything in the Bill that will erode the operation of those important frictionless tariff-free trade arrangements in goods and services that we currently enjoy. Amendment 124 has great merit, and I certainly hope that all Members will consider giving it their support.

1.45 pm

Stephen Doughty (Cardiff South and Penarth) (Lab/Co-op): My hon. Friend mentions the single market; I wonder whether he noted the research published today by the Rand Corporation in the United States that made it clear that any kind of fantasy deal with the United States while President Trump is in charge would do nothing for us compared with remaining in the single market and the customs union.

Mr Leslie: Yes; I think many hon. Members are under the illusion that free-trade agreements are an okay substitute for the single market arrangements that we now have. Our economy is 80% service sector. We take for granted the frictionless movement of goods, parts and components, and amendment 124 would—

Hon. Members: Order!

The First Deputy Chairman of Ways and Means (Mrs Eleanor Laing): Order. If the hon. Gentleman is out of order, I will tell him that he is out of order. Does he wish to convince me that it is in order to speak about this particular matter?

Mr Leslie: I absolutely do, Madam Deputy Speaker. Amendment 124 talks about protecting the single market provisions, and that is why, in today's debate, as well as getting into constitutional areas such as protecting Parliament's rights, we also have a duty to talk about the single market. The right hon. Member for Carshalton and Wallington's amendment addresses this point. This is something that many of us feel very strongly about, and we are not going to give up without a bit of a fight.

Tom Brake: The point also enables us to remember that this was in the Conservative party manifesto in 2015.

Mr Leslie: Who could possibly forget that support for the single market was once a key aspect of Margaret Thatcher's policy making, as well as the policy of subsequent Governments?

Anna Soubry (Broxtowe) (Con): The hon. Gentleman is right when he says that Margaret Thatcher was pretty much the authoress of the single market. Does he agree that, as trade develops, the best places to do business will be those nearest to us—not those far away, which mean that goods have to be conveyed over huge distances?

Mr Leslie: We are putting a lot of effort into trying to get free trade deals with New Zealand, Australia and other countries, and much as I would love free trade deals with all of them, the fact is that our biggest markets are our nearest neighbours. Having that single market and that customs union is incredibly important, which is why amendment 124 should not be dismissed and I believe Members should support it. We also need to pay attention to the powers and rights that Parliament must now assert if we are to ensure that the Executive do not take back the control that many of our constituents thought was coming to their representatives after the referendum.

Sir Oliver Letwin (West Dorset) (Con): As always, I am lost in admiration for the extraordinary eloquence of the hon. Member for Nottingham East (Mr Leslie). It is unfortunate that he has a tendency, as he exhibited on this occasion, to be so carried away by his eloquence as to take arguments that many Government Members also consider important and extend them to the point where they become definitely untrue. This diminishes the force of those arguments. I believe that the Bill is over-drafted—for some of the reasons that he adduced, to give the Government greater scope for dealing with a whole series of problems, in a way that the civil service often recommends to Ministers—but it is not the case that it offers the unconstrained powers that he was suggesting. His world is a world without a Supreme Court, and without judgments of the meaning of deficiency. He alleged that the meaning of "appropriate" was entirely obscure and then used it, by my count, five times himself. We all knew what he meant and so would a court. One does not need to go to the extents to which he was going to point out that the Bill requires some amelioration in respect of the secondary legislation powers, a point which many Members on both sides of the Committee made during an earlier debate. He could have rested with that, which would have taken rather fewer minutes.

[Sir Oliver Letwin]

I look forward to hearing from my hon. Friend the Member for Broxbourne (Mr Walker), the Chairman of the Procedure Committee, because unlike the hon. Member for Nottingham East I think that amendment 393—if I remember the number correctly—is carefully judged. I think it probably will provide—*[Interruption.]* I apologise for getting the number wrong; I was referring to amendment 397. In any case, the Procedure Committee's amendment seems to be the right way to tackle the question of triage, and it is well judged and well drafted. I hope that Ministers will tell us in their responses from the Dispatch Box that recommendations from the Procedure Committee will in this instance always be respected in the House. I do not think that we need to worry about a completely separate set of Ministers dealing with the recommendations, because the recommendations will be made in the coming months. We need a combination of that amendment plus an assurance from the Dispatch Box that the Procedure Committee's recommendations will be observed, and I think we could rest on that.

Chris Bryant: I just worry about this whole business of relying on the Government saying that they will always go by a recommendation that comes from a Committee. Several times I have heard Ministers stand in the Chamber and say that if the Opposition demand a vote on the annulment of a Standing Order, there will always be one. However, over the past few years, there have on repeated occasions been no debates or votes, even when demanded by the Opposition and a large number of Government Members. It is almost sweet of the right hon. Gentleman to place such confidence in Ministers, but they are sometimes not to be trusted. We just put temptation in their way.

Sir Oliver Letwin: The hon. Gentleman is a doughty defender of his party interest and of the House of Commons. On this occasion, if such an assurance is given from the Dispatch Box and if the advice of the committee is not followed, people on both sides of the House will cause a sufficient fuss to ensure that the House does have the opportunity to debate instruments under the affirmative procedure.

John Redwood: Will my right hon. Friend clear up one other uncertainty created by the hon. Member for Nottingham East (Mr Leslie)? Is it not the case that the powers that we are debating are strictly time limited to two years from the date of departure? This is not a long-term issue.

Sir Oliver Letwin: One of the most striking moments of hyperbole was when the hon. Member for Nottingham East asserted that the situation would last for many years. He will of course know, as my right hon. Friend the Member for Wokingham (John Redwood) points out, that the provisions are sunsetted.

Chris Bryant: Unfortunately, that is not true because the Government are able to change the Act by statutory instrument.

Sir Oliver Letwin: Except of course it is, because if the amendment is accepted, as the Government intend, the committee will be empowered to make a recommendation to have something debated by the affirmative procedure in the House should such an eventuality arise. In those circumstances, if we have an assurance from the Dispatch Box that something will be so debated, the hon. Gentleman and I will be able to join forces to prevent such a thing from happening. That is a genuine lock, and this debate depends on whether we want to engage in party political games or whether we want a serious approach to ensuring ministerial accountability. Amendment 397 is serious, and my hon. Friends and I are keen to ensure that its changes are made. I note that my right hon. and learned Friend the Member for Beaconsfield (Mr Grieve) has also put his name to the amendment, which gives me great comfort that it is a serious effort to cure the problem.

The Parliamentary Under-Secretary of State for Exiting the European Union (Mr Steve Baker): On the point made by the hon. Member for Rhondda (Chris Bryant) about amending the Act, which I will refer to in my own speech, I just want to draw the Committee's attention to paragraph 6 (2)(g) of Schedule 7. For us to amend the Act, any change would have to relate to the withdrawal agreement and its implementation and would be subject to a vote in both Houses.

Sir Oliver Letwin: That is indeed true. I suppose that Opposition Members would tend to argue that only the courts could enforce that, which is an oddity with the principle of comity, but I think we are dancing on the heads of pins here. I am confident that the Government do not intend to use that power to get rid of the constraints within the Bill. I am equally confident that the serious issue here is whether significant changes are proposed by the negative procedure and, I repeat, the Procedure Committee amendment seems to handle that serious issue, which is in contrast to the highly hypothetical considerations that have already been put before the Committee.

Amendments 62 and 63 were, in a different form, the subject of some serious discussions earlier in Committee. They relate to how we bring the important environmental principles in the treaty on the functioning of the European Union into English law at the time of withdrawal and to how we replace the useful role that the Commission has played in being an independent enforcement agency for environmental law that is governed by those principles in its procedures and substantive actions.

Helen Goodman: Is the right hon. Gentleman referring to new clauses 62 and 63 or amendments 62 and 63?

Sir Oliver Letwin: New clauses 62 and 63. I do apologise. I am very bad at remembering the nomenclature, but I know which ones I am talking about. They are the ones that relate to the environment—their proponent, the hon. Member for Wakefield (Mary Creagh), is sitting behind the hon. Lady—and we had a long discussion about them earlier in Committee. Since those discussions inside the House, many of my hon. Friends, including my hon. Friend the Member for Richmond Park (Zac Goldsmith), and I have had considerable conversations outside the House with various people, such as the Secretary of State for Environment, Food and Rural Affairs, green non-governmental organisations and others. I am now confident that the Government will bring forward proper new primary legislation to create an

independent body outside the House with prosecutorial powers that will replace the Commission as the independent arbiter to enforce environmental rules and to ensure that the Government are taken to task in court without the need for the expense of class action lawsuits.

Caroline Lucas (Brighton, Pavilion) (Green) *rose—*

Sir Oliver Letwin: May I continue for a second? I may anticipate what the hon. Lady is going to say, but I will give way if I do not.

In addition to such a body being put on a statutory basis, I am confident that included in the relevant legislation will be a direct reference to the principles, so that it is clear that the policy statement, which will be mandated, must look to those principles and must explain how the Government of the day intend to carry forward the principles into action. The policy statement will then become justiciable and will, under the forthcoming legislation, receive support in the form of a resolution of this House and will therefore attain a statutory force of its own.

Caroline Lucas *rose—*

Mary Creagh *rose—*

Sir Oliver Letwin: I will give way to both hon. Ladies, but I will just say one last thing in case they were going to make this point. Many people have raised the question of whether all this work will be done in time—I see the hon. Member for Brighton, Pavilion (Caroline Lucas) nodding and I suspect that she will want to raise that point—and I see that if there was doubt about whether it was, that would be a reason for legislating here, as opposed to waiting for a proper new statute. I am delighted to say that we have talked sufficiently to Ministers to be confident that they will be bringing forward both the consultation and the legislation in time to ensure that it is in place before we exit the EU. Of course, I would also want to wait until January to see the consultation to ensure that that engagement is fulfilled, and I am sure that the other place will want to look at what is said in the consultation and to assure itself that the new statute is coming forward before it consented to allow this Bill to proceed without the amendments that are being proposed. I believe that the right way to do this is in separate legislation. It is not about this business of Brexit; it is about trying to get the right answer for the environment. It is much better that we should do that in a fully fledged Bill that will be properly debated and contains all the relevant provisions and powers, which will never shoehorn into this Bill. I genuinely believe that that is the best way forward.

2 pm

Caroline Lucas: I am pleased about the measures that the right hon. Gentleman outlines, to which the Government are apparently committed, but I am still worried about time, and I do not share his confidence that, given the amount of business that the Government have to get through in a small amount of time, we can be absolutely sure that the new body will be in place in time. Why can we not have a belt-and-braces approach? I agree that the Bill is not the ideal place to put such a provision, but it is an awful lot better to have it in the Bill than nowhere. I do not share his confidence that it will definitely get through Parliament in time otherwise.

Sir Oliver Letwin: I do not suppose that I will succeed now in persuading the hon. Lady. I do not wholly disapprove of the idea of her and others pursuing aggressive amendment tactics here and in the other place to ensure that the Government continue to respond effectively and rapidly. Once the consultation paper emerges and the Secretary of State has made further statements about this, and once legislative time has been allocated in the Parliamentary Business and Legislation Committee, assuming it is still called that, we will have that confidence. I would prefer to rest on that, because it would be at the least inelegant and possibly positively damaging to pass one piece of legislation and then introduce another that repealed or amended it. That sounds to me like a recipe for confusion.

Should we become sceptical at a later date about whether the Government will bring separate legislation forward, it would be open to the House of Lords to table amendments in the other place, which would come back to us. I, for one, would want to see those amendments made if the Government did not intend to put something in place before EU exit day. I am currently confident that they will, and that is the only basis on which I will not be voting for the new clause this evening.

Mary Creagh: I do not share the right hon. Gentleman's confidence that all this will be done in time, and I share the concerns of the hon. Member for Brighton, Pavilion (Caroline Lucas). We have been waiting two and a half years for a 25-year environment plan, which will be a 22-year plan by the time it is published. We have had promises of legislation on fisheries and the common agricultural policy, and today a draft animal sentience and animal welfare Bill has been published. There is already a legislative logjam in the Department for Environment, Food and Rural Affairs as a result of the decision to leave the EU, and at the moment there is a reporting gap. Although there may be a new body in the future to do some of the enforcement, I do not believe that it will be up and ready at the point of leaving, when all our reporting obligations, which currently rest with the European Commission, will fall.

Sir Oliver Letwin: There are quite a lot of bits to unpack in that. If we were to leave without an agreement and hence without a transition period, there would be some merit in her observation, although the gap would be short if the new body had been legislated for by the time we left. If the Government's plan succeeds and there is a transition period, we will no doubt be bound by the current rules during that period so there would be two full years in which to establish the new body. It is not likely that the hon. Lady's concern on that front will be realised in practice, although I admit some theoretical possibility of it.

The hon. Lady adduces a legislative logjam in DEFRA. I accept the facts that she presents, but I see them exactly the other way round. We have a Secretary of State for Environment, Food and Rural Affairs who is probably the most powerful one we have had for a long time, for various reasons of which hon. Members on both sides are acutely conscious. He is probably more committed to this agenda than any we have seen in recent times in either Administration—*[Interruption.]* I am conscious that the right hon. Member for Leeds Central (Hilary Benn) will inevitably cavil slightly at

[Sir Oliver Letwin]

that, and I respect his record. I genuinely believe that the current Secretary of State is even more devoted to the environment than he was.

An awful lot of DEFRA legislation will inevitably have to be brought to the House before exit. No Environment, Food and Rural Affairs Secretary and no Government could resist it. One cannot exit the EU without solving the problems of the common fisheries policy and the common agricultural policy so there is a natural legislative slot, and this powerful Secretary of State will be more than capable of bringing before the House the relevant statutory provisions. They will not be simple; they will require mature deliberation in both Houses. I am sure we all agree that it is incredibly important that we get the provisions exactly right. We need to make sure that it is a genuinely watertight system, with a set of policies that apply, that the court will enforce and that can be brought to court by an independent body. We need to ensure that the independent body is genuinely and completely independent of the Government, that it can bring Ministers to court, that it is properly funded and staffed and that it looks at the way in which the principles are applied through the policy statement in practice.

I believe that if all that can be done in a proper statute, it would be not just a replication of where we have been, which is now much lauded but was in practice very imperfect, but a huge advance on that. We would have a more comprehensive enforcement of a better environmental legislative framework than any country on earth. That is a goal worth striving for in a proper Act, instead of trying to shoehorn into this Bill a set of new clauses and amendments that are well intentioned but cannot perform the same purpose.

Zac Goldsmith (Richmond Park) (Con): My right hon. Friend makes a brilliant speech. *[Laughter.]* I cannot disagree with a single word that he has said. I strongly agree with him. The main sticking point is not the aspirations of the Secretary of State to build an independent body that is sufficiently resourced to hold the powerful to account in the way that he has described. The issue is timing and trust. Exactly the same arguments were used just a couple of weeks ago in relation to animal sentience. Sceptics in the House questioned the commitment of the Government to deliver a sentience Bill and said that if it was delivered, it would be a watered down version. We have proof this morning of the Government's intent; we have a sentience Bill that goes way further than anything in EU law. It applies to all animals, all sectors, all parts of government. It takes us forward in a dramatic and meaningful sense, and that is what I hope we can expect from the initiative of the Secretary of State. I apologise for speaking for so long.

Sir Oliver Letwin: I agree with my hon. Friend. He is being unduly modest, because in large part it is due to pressure from him that the Government have introduced such an effective and incisive Bill in a timely fashion. I agree that that gives us considerable confidence about what will happen on this other, even wider ranging matter.

Caroline Lucas: I am pleased to see the change on animal sentience, but to correct the hon. Member for Richmond Park (Zac Goldsmith), the debate a few weeks ago was about whether we needed new legislation to provide for animal sentience when we left the EU. The Minister stood at the Dispatch Box and said that we did not need new legislation as it was already covered by existing UK domestic legislation. So I am pleased to see a screeching U-turn, but let us not pretend that it was not a screeching U-turn.

Sir Oliver Letwin: I have steadfastly resisted for 21 years engaging in meaningless partisan debate, and I am not going to abandon a career's worth of effort in that direction to answer that point. Animal sentience is built into English law in various ways already, but the new Bill will vastly strengthen the position compared with what it is today under European law. That is a huge advance for our nation, one that many people on both sides of the House can be happy with. As my hon. Friend the Member for Richmond Park was pointing out, there is an exact parallel with what we and the Government are seeking to do in relation to environmental regulation. I really believe that if we could lay aside both the inevitable divisions about Brexit itself and the inevitable play of party politics, and simply focus on what is going to do the best thing for our environment, we would see that the programme we have before us is a huge advance and one we should gratefully welcome.

Matthew Pennycook (Greenwich and Woolwich) (Lab): It is a pleasure to serve under your chairmanship, Mrs Laing, and to follow the right hon. Member for West Dorset (Sir Oliver Letwin). I rise to speak to new clauses 63 and 1, amendments 32 and 25, which stand in my name and those of my right hon. and hon. Friends, and amendments 342, 333, 350, 334 and 33 to 41.

For the purposes of clarity, I intend to break my remarks down into three parts. I will first speak to those new clauses and amendments that relate to the purpose, scope and limits of clause 7. I will then turn to those that relate specifically to the clause 7 power to transfer functions from EU entities and agencies to UK competent authorities. I will finish by turning to new clauses and amendments that relate to the Government's proposals about how Parliament will scrutinise and, where necessary, approve secondary legislation made under the powers provided for by not only clause 7, but clauses 8, 9 and 17.

I turn first to the purpose, scope and limits of clause 7. As I said when winding up for the Opposition in the debate on Second Reading, the delegated powers conferred on Ministers under clause 7, and clauses 8, 9 and 17, are extraordinary in their constitutional potency and scope. They are, to put it plainly, objectionable and their flaws must be addressed before Third Reading. As such, when it comes to the correcting powers provided for by clause 7, what we are debating is not whether there is a need to place limits on these powers—that, I hope, is beyond serious dispute. What is at issue today, and what I intend to cover in the first part of my remarks, is what limits should be placed on these powers and why.

Just as the Opposition accept that the Brexit process requires legislation to disentangle the UK from the European Union's legal structures and to ensure that we have a functioning statute book on the day we leave, we also understand, in light of the legislative reality that must be confronted between now and exit day, that no Government could carry out this task by primary legislation

alone. We therefore accept that relatively wide delegated powers to amend existing EU law and to legislate for new arrangements following Brexit where necessary are, and will be, an inevitable feature of the Bill. Given how much EU and EU-related law has been implemented through primary legislation, we also recognise that the Bill will have to contain Henry VIII clauses. We appreciate that there is a difficult balance to be struck between the urgency required to provide legal continuity and certainty after exit day and the equally important need for safeguards to ensure we maintain the constitutional balance of powers between the legislature and the Executive.

We also believe, however, that to the extent that relatively wide delegated powers are necessary, they should not be granted casually and where they are granted they should be limited, wherever possible, and practical. That is particularly important given how remarkable the correcting powers provided under clause 7 are in their potency and scope. On their potency, it is important to recognise that the Henry VIII powers contained in clause 7 are of the most expansive type. As has already been noted by my hon. Friend the Member for Nottingham East (Mr Leslie), clause 7(4) makes it clear that the power granted by subsection (1) can be used to enact regulations that make any provision that could be made by an Act of Parliament, and clauses 8(2) and 9(2) make equivalent provision in respect of the powers conferred by both those clauses.

These are extraordinary powers, for if it is possible for regulations made under clause 7(1) to make any provision that could be made by an Act of Parliament, that must extend logically to amending or repealing any kind of law, including provisions in other Acts, in the context of wide-ranging purpose of the clause: to remedy any deficiencies that arise in retained EU law. Furthermore, paragraph 1(2)(8) of schedule 7 explicitly confirms that the powers in clause 7 can be used to create powers "to legislate". As the powers can be used to do anything that could be done by Act of Parliament by means of subsection (4), the Bill itself can be used to create further Henry VIII powers. As such, if this Bill is passed unamended, we face the prospect of Ministers—perhaps not this Minister or Ministers in this Government—having the ability to use the Henry VIII powers in this Bill to confer further such powers upon themselves or other UK institutions; we are talking about delegated legislation piled on top of delegated legislation. That is an outcome that no Member of this House should regard as an acceptable prospect, but it is possible using the powers conferred under clause 7, as drafted.

2.15 pm

As with so much of the Bill, this House is being asked again and again to take it on trust that Ministers will not abuse these powers. Frankly, Labour Members are not willing to take anything on trust and no hon. Member should be. The constitutional potency of the delegated powers in clause 7 is matched by their extraordinary scope. I accept that that scope is not limitless—they are subject to certain express restrictions as set out in clause 7(6), but those restrictions are limited. Even with those restrictions in place, what could be done by Ministers using these powers remains extremely broad, not least because of the imprecision of the language used in subsection (1) and its subjective nature in key respects.

First, as my hon. Friend the Member for Nottingham East has mentioned, subsection (1) states that the Minister may make

"such provision as the Minister considers appropriate"

to address a deficiency in retained EU law arising from withdrawal. I listened carefully to the Under-Secretary of State for Exiting the European Union, the hon. Member for Worcester (Mr Walker), last week when he defended this wording as it related to schedule 2, on the grounds that to replace "appropriate" with "necessary" or "essential" would be unduly restrictive, could be interpreted by a court to mean logically essential and would therefore limit the discretion Ministers need in cases where two or more choices on how to correct retained EU law are available. But Ministers must accept that the subjectivity inherent in the choice of the word "appropriate" remains a concern across this House and they need to further elaborate, not only on why its use would not render the power in clause 7 open-ended, but on why the Government chose to use the phrase "where necessary" in their White Paper on the Bill, published in March—this is at paragraph 3.7. We need to know why that has changed and why Ministers now believe that "appropriate" and not "necessary" is the right language to use in the Bill.

Chris Bryant: We might think that the most extreme legislation that would be on the statute book allowed for emergency powers. The Civil Contingencies Act 2004 makes it absolutely clear that, when Henry VIII powers are to be used, the Minister must explain why they are important, why they are necessary and that they have met an appropriate level of proper jurisdiction beforehand, but none of that is available in the Bill. Is it not therefore important that we have measures such as amendment 17, which adds to the clause?

Matthew Pennycook: Absolutely. My hon. Friend spoke powerfully about this matter on Second Reading, and he is right in saying that the scope of the powers in this Bill is not narrow, as some Conservative Members have argued; these powers are extraordinarily wide and unprecedented in the post-war period. I struggle to find other examples of Acts that have drawn their powers this wide.

Secondly, and perhaps more concerning, clause 7(1) will allow Ministers to make such regulations as they consider appropriate for the purpose of preventing, remedying or mitigating

"(a) any failure of retained EU law to operate effectively, or

(b) any other deficiency in retained EU law"

arising from exit. What is meant by the entirely subjective phrase "operate effectively" is left entirely open, a point rightly highlighted by amendment 15, which stands in the name of the right hon. and learned Member for Beaconsfield (Mr Grieve) and others. What is meant by deficiencies is more precisely defined, but clause 7(2) still only provides a non-exhaustive set of examples of what is considered to fall within this category. As such, it leaves Ministers with considerable latitude in determining when retained EU law contains a deficiency. The explanatory notes to the Bill seek to reassure us that the power could not be used by a Minister just because he or she considered the law in question to be flawed prior to exit. Today's Minister will no doubt repeat that it is not the Government's intention to use this Bill to make

[Matthew Pennycook]

major policy changes or to establish new frameworks in the UK beyond those which are necessary to ensure we have a functioning statute book on exit day. But in the absence of a definitive criteria of what constitutes a deficiency, or, indeed, restrictions on how deficiencies might be addressed in the Bill, there is still scope for the Executive to enact substantive changes to policies in areas that were previously underpinned by EU law, whether by lowering permissible air quality levels or modifying crucial employment protections.

Stephen Doughty: I thank my hon. Friend for his excellent forensic examination of what is at fault in the Bill. Does he agree that there is deep suspicion and mistrust because we have heard speeches from Members who might seek to form the Government at some point—particularly the hon. Member for North East Somerset (Mr Rees-Mogg) and others—who have made it clear that they want a deregulated race-to-the-bottom economy and society? It is all very well to have assurances from the current team of Ministers, but what if others were in their place?

Matthew Pennycook: That is precisely our concern. We discussed that at length on day 2 in Committee, when we were talking about the need for enhanced protection for retained EU law because it will be stripped away from its underpinnings in EU law post-exit.

A further concern about the language in clause 7(1) is that, given how wide clauses 2, 3 and 4 are in respect of what will come under the umbrella of retained EU law, Acts of Parliament that are linked to EU law, such as the Equality Act 2010, will be susceptible to change by statutory instrument under the clause. That would be an entirely unacceptable situation. There are many different ways in which the constitutional potency and scope of the correcting powers provided under clause 7 can be circumscribed, and we support many of the amendments tabled to the clause that share that same basic underlying objective.

Amendments 32 and 25 are the means by which my right hon. and hon. Friends and I have attempted to limit those correcting powers. Amendment 32 would diminish the potency of the delegated powers in the clause by removing the ability to modify or amend the Act itself. I listened to what the Minister said about the schedules and how they dictate things, but I would argue that there seems to be a difference—if Members wish to direct their attention to it, this is on pages 39 and 43 of the Bill—between the process that applies to clause 7 and that which applies to clause 9, with respect to whether a vote in the House would be required for Ministers to amend the Act itself. Perhaps the Minister will elaborate further on that in his response.

Amendment 25 would reduce the scope of the powers by constraining their capacity to reduce rights and protections, while amendments 350 and 334 would buttress amendment 25 by putting specific limits on the powers in question by requiring Ministers to pay full regard to the animal welfare standards enshrined in article 13 of the treaty on the functioning of the European Union and to guarantee that the air quality standards and protections that are currently underpinned by EU law are maintained in practice following our departure.

Given how widely drawn the powers in clause 7 are, coupled with their potency and scope and the inherent subjectivity of the language in subsection (1) in key respects, ministerial assurances and promises to go away and have a cosy chat, as we have had on other days, are not good enough in this instance. The powers entail a significant transfer of legislative competence from the legislature to the Executive and open up the real possibility of substantive changes being made in policy areas that previously were underpinned by EU law. Restrictions on the powers must be placed in the Bill, whether through amendment 32 or 25, or some other combination of amendments. I look forward to hearing from the Minister not only that the Government now accept as much but what they intend to do about it.

On the new clauses and amendments that relate specifically to the clause 7 power to transfer functions from EU entities and agencies to UK competent authorities, Ministers have been at pains to point out throughout this process that many of the corrections to retained EU law made under the correcting power in clause 7 will be mechanistic, textual or technical in nature. That will undoubtedly be the case, but many others will not be. As other Members have noted, the powers in clause 7 allow for not only the creation of new UK public authorities using the affirmative procedure but the transfer of EU regulatory functions to existing UK institutions using the negative procedure. However, in neither case does the clause 7 power as drafted ensure that retained EU law will be made operable in ways that replicate and maintain, in so far as is practical, all the existing powers and functions exercisable by EU entities. As a result, the clause does not guarantee that the powers and functions of entities such as the EU Commission or other EU agencies will continue to operate with equivalent scope, purpose and effect after exit day.

Amendment 342 would address the problem by making it clear in the Bill that regulations to which subsection (5) applies must, again in so far as is practical, ensure that the standards, rights and protections currently maintained by EU institutions, or other public authorities anywhere in the UK, continue to exist in practice after exit day and that the UK competent authorities that are overhauled or created for that purpose have the resources, expertise and independence required to carry out their task effectively. That they do so is crucial not only for legal certainty and continuity and to ensure continued confidence in UK products and services, but as a guarantor of stability and redress for citizens and civic bodies in key areas in which there is a clear risk that Brexit will leave a governance gap.

The need for such an amendment is particularly important when it comes to the environment. I take the point made by the right hon. Member for West Dorset that we discussed this matter in Committee at length on other days. Of course, it relates intimately to the environmental principles, although they are outside what is covered by clause 7. We have tabled new clause 63 to require the Government to establish new domestic governance arrangements, following consultation, for environmental standards and protections and, crucially, to ensure that the new arrangements provide robust enforcement mechanisms when environmental requirements and standards are not met.

The Government's thinking about this policy area has clearly moved on from their early insistence that existing regulatory bodies, parliamentary scrutiny and

the use of judicial review alone would be sufficient to provide oversight of Government and public body conduct. The pledge by the Secretary of State for Environment, Food and Rural Affairs to create a new environmental watchdog and to consult early in the new year on its scope, powers and functions is welcome, but as things stand we have no clear indication of the watchdog's scope, powers and functions; no clarity on whether the Government are seeking agreement with the devolved Administrations with a view to implementing similar measures in their jurisdictions; and no sense of whether or not the watchdog will be able to levy credible sanctions or provide for effective enforcement of breaches.

Sir Oliver Letwin: Before the hon. Gentleman moves on, I think what he says about the devolved authorities is incorrect. As I understand it, the Secretary of State made it perfectly clear that, if possible, he would like the devolved Administrations to come along with the process and share in the institutional framework. Of course, that is not a decision he can make; it is up to the devolved Administrations.

Matthew Pennycook: I am happy to take that on board. I learn more about Government environmental policy from the right hon. Gentleman than I do from his Front-Bench colleagues, so I happily stand corrected.

Mary Creagh: What the Secretary of State announced to the Environmental Audit Committee on 1 November was the beginnings of an idea. During that evidence session, the one new environmental body morphed into four potential environmental bodies, which have yet to morph into a consultation, which has yet to be published. At the moment, we are chasing chimeras—I do not know whether I have pronounced that correctly. *[Interruption.]* I thank the genius of the group, my hon. Friend the Member for Rhondda (Chris Bryant), for helping me with my Greek pronunciation. What I have described stands in stark contrast to the hop, skip and jump on the animal sentience legislation that has been rushed out before Christmas—the triple jump on animal welfare legislation. The issues relating to devolution are further complicated by the promise to the Republic of Ireland on full regulatory alignment on agriculture, water and waste, which is now going to continue regardless.

Matthew Pennycook: My hon. Friend makes a series of good points. I do not take the Government's commitment in this policy area lightly and I do not take issue with it. What is at issue is the scope and powers of the watchdog and the timing. I share the concerns expressed by my hon. Friend and by the hon. Member for Brighton, Pavilion (Caroline Lucas) about whether the new watchdog will be up and running in time and whether it will have the powers necessary to carry out the same functions as the institutions and agencies that currently exist.

New clause 63 would ensure that robust new domestic governance arrangements for environmental standards and protections were in place before exit day. It would also ensure that the body tasked with filling the governance gap was established by primary legislation before that date and that its scope, powers, functions and institutional design were shaped by public consultation.

James Heappey (Wells) (Con): Before the hon. Gentleman moves on, I am interested to understand whether the purpose of new clause 63 is a UK-wide set of policies that would apply in Scotland and Wales, which would therefore remove a competency on the application of environmental law from the Scottish Government to Westminster.

Matthew Pennycook: The scope of new clause 63 is for the environmental watchdog in England, as we have already said. There would have to be agreement between the devolved Administrations and the UK Government about whether they choose to take the same approach.

Mary Creagh: One point that my Committee has specifically made on the devolution settlement is that business does not want to deal with four regulators setting up four different sets of rules and regulations on waste, on water and on chemicals. It wants one set of regulations to deal with, and it has made it consistently clear that the set of rules that it would like to continue to abide by is that set by the European Union.

2.30 pm

Matthew Pennycook: I absolutely agree. The devolved Administrations, as my hon. Friend has reminded me, agree that they want to take a UK-wide approach to this issue, but it would have to be an agreement.

Let me turn now to those new clauses and amendments that relate to the Government's proposals about how Parliament will scrutinise and, where necessary, approve secondary legislation made under the powers set out in schedule 7(6). It is clear that the vast majority of hon. Members and the Government have accepted that the House's current procedures for scrutinising negative and affirmative instruments are not acceptable. The hundreds of SIs that will flow from clauses 7 to 9 and 17 need something different. It is encouraging that Ministers have listened and have made it very clear that they intend to accept the amendments in the name of the hon. Member for Broxbourne (Mr Walker) and other members of the Procedure Committee. We welcome those amendments and the establishment, as our new clause 1 proposes, of a parliamentary Committee to sift or triage regulations, and we support their incorporation in the Bill. Frankly, it is better than nothing, but it is the minimum of what might be expected, and we do not believe that they go far enough.

Amendments 397 and 398 propose that every SI made only via the negative procedure will be sent to the new Commons committee for consideration, with the committee determining within a 10-day window which ones would be required to be made under the affirmative procedure. That is an improvement on the arrangements proposed in this Bill as it stands, because it provides for discretion beyond the very narrow category of regulations attracting the affirmative procedure currently set out in schedule 7, and it will ensure that Ministers will not have unfettered discretion to decide whether the affirmative or negative procedure should apply in cases where an exercise of powers does not fall within one of the categories set out in the Bill.

Ministers must justify why the new committee will not be tasked with looking at SIs made under the affirmative procedure, or with examining the justification for using the SI in question to remedy a particular deficiency in EU law. Importantly, they must justify why, in urgent cases, which I know is a phrase that is undefined, Ministers can simply bypass the committee.

[Matthew Pennycook]

Lots of these matters will be dealt with under Standing Orders, but it is right that we press for some clarity today. I hope that the Minister will provide further clarification on the composition of the new committee, in particular whether, as proposed in our new clause 1, the chair will be elected by the whole House and will be, and will be seen to be, independent of the Government. Ministers must further explain why they do not believe that the new committee should have the powers to recommend revisions to individual SIs.

Amendments 397 and 398—here I stand to be corrected by the hon. Member for Broxbourne or others on the Committee—make no such provision for revision. In this respect, they differ in a crucial aspect from the proposals set out in the Procedure Committee's interim report of 6 November, which, while not providing for a formal mechanism for revising secondary legislation, did suggest a process by which a request could be made to Ministers to revoke and remake any particular SI underpinned by the scrutiny reserve. Without provision for this House to request, in certain limited cases, that a particular SI be revised, hon. Members will face a Hobson's choice—take it or leave it with regard to regulations that may entail highly significant policy choices and have potentially serious or far-reaching implications, with "leave it" in these circumstances meaning a hole in the statute book.

Our amendments 33 to 41 make it clear that any new sifting committee that is established must be given the means not only to determine the level of parliamentary scrutiny that each SI is accorded in proportion to their significance and policy implications, but to make recommendations as to how particular SIs might be improved by revision—if necessary if only by means of the committee in question recommending that an instrument either be withdrawn and re-laid in a more acceptable form or, if a negative, be revoked and remade.

I wish to touch on one last issue: when it comes to the effective scrutiny of secondary legislation, it is crucial, as my hon. Friend the Member for Rhondda (Chris Bryant) has argued, that long-standing parliamentary conventions are adhered to. Even after the process of sifting undertaken by the new committee, SIs subject to the negative procedure can only be annulled if the Government of the day themselves allow time for the House to debate the matter and to have a vote on it. Yet, as my hon. Friend pointed out today and on Second Reading, the Government have consistently refused in recent years to honour that convention, just as they no longer honour the convention that Opposition day motions are voted on. We have a very recent example that illustrates how this Government have used delegated powers not just to avoid parliamentary scrutiny, but to legislate in open defiance of the will of the House in relation to the matter of tuition fees. The original Act in question with regard to that matter allowed any statutory instrument raising the tuition fee limit to be annulled by either House, and assurances were given by Ministers in both the previous Labour Government and the coalition Government that any such SI would be taken on the Floor of the House.

By contrast, this Government prevented any vote whatever on the matter, and then refused to accept the vote of the House against the regulations. When they tabled the regulations the day before the 2016 Christmas recess, the Opposition prayed against them on the first sitting day this year, but despite the conventions of the House, the Government dragged their feet for months until eventually conceding the point and scheduling a debate on 18 April. Then Parliament was dissolved for the election.

After the election, the Government stalled and it was left to my hon. Friend the Member for Ashton-under-Lyne (Angela Rayner) to secure parliamentary time using Standing Order No. 24. Eventually, we had to provide Opposition time on an Opposition motion to revoke the regulations, which the House agreed, only for the Government to refuse to accept the result, after telling Government Members to boycott the vote. Therefore, when Ministers say that Parliament still has a meaningful say on delegated legislation, there is a catch—and it is a Catch-22. They can refuse time for a vote within the 40 days, then say that it is too late for any vote to count once the deadline has passed.

This Bill includes powers that not only open up the very real possibility of substantive changes being made to policies in areas that were previously underpinned by EU law, but to amend primary legislation. If the Government are willing to ignore so flagrantly the conventions of this House when it comes to an issue as controversial and as important as university tuition fees, why on earth should this House assume that those conventions will be honoured when it comes to Brexit legislation?

Stephen Doughty: My hon. Friend has made an absolutely essential point. Fundamentally, does he agree that if this process is to be about taking back control, it must be about Parliament and the representatives of the people taking back control, not a Government, and certainly not a minority Government, taking back excessive powers?

Matthew Pennycook: I could not agree more with my hon. Friend. That is why strengthened scrutiny procedures for approving secondary legislation made under this Bill are so important, and it is also why long-standing conventions must be honoured, so that in the rare cases where the Committee might recommend an SI be subject to the negative procedure but the Opposition disagrees, there is a chance to bring the matter before Committee.

John Redwood: This debate is very important. As someone who wants this Parliament to take back control on behalf of the sovereign British people who voted in that way in the referendum, I can see that there is an irony in this debate. We hear that a number of Opposition Members are very worried that Ministers will have too much power as a result of this legislation, but by the very act of our having this debate, and in due course the votes, on how we should proceed, I think that we are demonstrating that, indeed, Parliament is taking back control. The purpose of these debates today and tomorrow and the subsequent votes will be for Parliament to set a very clear framework within which Ministers will have to operate.

We are, after all, debating how we translate a very large burden of existing European law into good United Kingdom law in order to ensure continuity and no change at the point when we exit the European Union.

This is a task that unites people of all political persuasions, whether they were in favour of leave or remain, around the need for legal certainty. We all see the need to guarantee that all that good European law under which we currently live will still be there and effective after we have left.

We also agree something else: some of us do want to change some of those laws. I want to change the fishing law very substantially, because we could have a much better system for fishing in this country if we designed one for ourselves. We will probably need to amend our trade and customs laws, because as we become an advocate for and an architect of wider free trade agreements around the world, that is clearly going to necessitate changes, which we think will be positive. I think we all agree that where we want to change policy—to amend and improve—we should do so through primary legislation. As I understand it, Ministers have agreed with that. I am sure that this House is quite up to the task of guaranteeing that Ministers will indeed have to proceed in that way, so that we know that when they wish to change—amend, improve or even repeal—policy, they will need to come through the full process of asking for permission through primary legislation.

Today we are talking about the adjustments, many of which are technical, that need to be made to ensure the continuity of European law when it passes from European jurisdiction to the jurisdiction of the United Kingdom Parliament and courts. Ministers will obviously play up the fact that they think most of these matters will be very technical, such as taking out the fact that the UK is a member of the European Union when we exit and rewriting the legislation to point out that we are no longer a member of the European Union, or decreasing the number of members states by one from the current number if they are referred to in the regulation. More difficult will be the substitution of a UK-based body for a European body to ensure proper enforcement. Many of us see that as largely technical, although there may be wider issues. This Parliament is now properly debating how much scrutiny that kind of thing would require.

We have three possible models to ensure parliamentary sovereignty over any of these processes. The weakest is the negative resolution procedure, whereby Ministers will have to make a proposal for technical changes to the law, and Parliament will have to object and force a vote if it wishes to. The middle model is the affirmative resolution statutory instrument, whereby Parliament will have a debate and a vote; Ministers would make a proposal and we would have a vote. In some cases, we might even conclude that we need primary legislation, as it appears we are deciding with the issue of animal welfare. In that case, we wish not only to transfer the European law but to ensure that it is better in British law, so that will need primary legislation.

Today we are debating how to determine which of those processes are appropriate for each of the different matters that arise. A lot of items will definitely be in the technical area of rather minor changes just to ensure that things work smoothly, which is what I thought the Government were trying to capture in clause 7. We have heard from Opposition Members who think that the clause goes too far and will allow the Government to elide matters from the category of technical changes to the category where there are more substantial changes going on, and still leave us with the negative resolution procedure. I am not as worried as some Opposition Members. The power under the clause is a two-year power only, so it is clearly related to the translation and transition period, which I find reassuring. There are also clear restrictions in clause 7(6) on Ministers changing taxes, inventing criminal offences and all those kinds of things, because they would obviously require primary legislation. We need to continue our debate on whether those two lists—the list of permissive powers and the list of restrictions—are the right lists.

Chris Bryant: I have been listening very carefully to the right hon. Gentleman. He is resting on the word "technical", which he has used repeatedly, but that is not what the Bill says. If the Government had come forward with something saying that they will only be able to use secondary legislation in technical changes, we might have been interested in looking at it. But that is not what it says; it is a widely drawn list. The right hon. Gentleman may well have perfect confidence in the Under-Secretary of State for Exiting the European Union, the hon. Member for Chipping Wycombe. Sorry, he is the hon. Member for Wycombe (Mr Baker)—*[Laughter.]* Well, the constituency used to be Chipping Wycombe. The right hon. Member for Wokingham (John Redwood) might have confidence in this particular Minister, but it may one day be another Minister. I suspect that the right hon. Gentleman thinks that the Leader of the Opposition is a Marxist revolutionary in a Venezuelan style. Well, he might yet be a Minister who will be making precisely these decisions, and that is why we should always legislate with caution.

John Redwood: I am intrigued to hear that characterisation of the hon. Gentleman's leader; it is not a phrase that I have ever used in this House. I find that very interesting, but I do not want to take the conversation into that party political realm.

We are trying to explore the proper constraints and controls to put on Ministers through this primary legislation, which will drive our democratic processes for this transfer of law. I look forward to hearing the Minister's response because I want reassurances—of the kind I think he will be able to give me—that this power is well meant and is designed to prevent Parliament from being clogged up with literally hundreds of rather minor drafting changes. Such minor changes are simple consequences of going from being a member to being a non-member that we do not need to worry about too much, so we need somebody to do them for us. The Bill says that Ministers are going to do it for us. Various Members are a bit sceptical about that for some surprising and interesting reasons, such as that we have just heard. There is also a suggestion, which has a lot to recommend it, that there be a sifting mechanism so that Parliament is involved in the process and can say to Ministers, "We do think this matter is a bit more than technical, so we cannot have the negative resolution procedure. This has to be a proper debate and a proper vote in order to preserve parliamentary process."

2.45 pm

Mary Creagh: On that point, does the right hon. Gentleman think that the draft Animal Welfare (Sentencing and Recognition of Sentience) Bill, which was published today, is a technical measure or something that merits scrutiny on the Floor of the House—and, ditto, the new

[Mary Creagh]

environmental body that has been proposed by the Secretary of State for Environment, Food and Rural Affairs?

John Redwood: As I understand it, that decision has been made for me. I have not yet had the advantage of reading the draft Bill, so I cannot give the hon. Lady my personal view, but the Government's view is that it is primary legislation. They think that even though that Bill is reaffirming practices in European law, because the Government think that it is going a bit further than European law, they have quite properly said, "We must make this primary legislation." The example makes my case rather well that the Government are being cautious because they are trying to reaffirm and go a bit further than European law, probably in a direction that most people in the House would be entirely comfortable with. But the House will have the benefit of going through the full processes of primary legislation. I hope that there will be other examples like that, where Ministers recognise that there could be changes of substance that will warrant either primary legislation or a statutory instrument.

I do not want to take up too much time because many people wish to speak, but I would like to pick up on something that the Labour Front-Bench spokesman, the hon. Member for Greenwich and Woolwich (Matthew Pennycook), started to mention and which I found very interesting. He drew our attention to the way in which we handle statutory instruments in the House in general. There are occasions when it is a weakness of our procedures that we cannot amend a statutory instrument, and we need to think about this for the future. This issue does not arise just from the transfer of European law; it goes to the fundamental business of how we generally exercise control and ensure that legislation works.

I remember being on a statutory instrument Committee under the previous Labour Government for an SI to regularise a series of payments to councils because the Government had been a bit late in giving themselves the legislative permission to make the payments—there was a surprise. I realised as soon as I read it that somebody had put in the statutory instrument the full amounts of money involved, and someone else had come along and put, "£millions" across the top of the table, so we were actually invited to vote six extra noughts on every figure going to the councils.

I am a generous man, but I thought that that was a bit excessive because it meant that the sums were probably bigger than the GNP of the country. If not, they were certainly approaching the GNP of the country in a rather alarming way. I was regarded as a bit of a nuisance for pointing this out because there was absolutely no way of correcting the figures. The Committee just had to sit and enact the statutory instrument as it was, even though it was clearly laughable, giving far too much cover for payments and not acting as a proper control. That is a minor example, but it shows that there are occasions when Ministers make mistakes and when it would be quite helpful if there were some kind of correcting procedure.

Tom Tugendhat (Tonbridge and Malling) (Con): My right hon. Friend is making an important point because he is exposing the very fact that, despite the fine occupant of the Front Bench today, one cannot be 100% certain of the quality of the procedure that is being carried out from the ministerial office. This House is fundamentally the custodian of the public purse and the taxpayers' money, and we must be absolutely certain that no cheques are blank and signed and left on Government desks.

John Redwood: I am glad we agree about that. I am trying to make a helpful suggestion for the future on this issue and a wider issue to which we need to return at some point. We need a system that establishes parliamentary control—as I have explained, all the methods we are discussing today are parliamentary control of one form or another—but we may need to think about how we improve processes for the future when that control is a statutory instrument.

Mr Grieve: My right hon. Friend is making some important points. If I may say, I have signed up to the amendments tabled by the Procedure Committee because they are a reasonable compromise, but they are most deficient in the absence of a revision mechanism to ask a Minister to reconsider. My right hon. Friend may agree that, even at this stage, those on the Treasury Bench could go away, reconsider the issue and bring a further amendment forward on Report to deal with it.

John Redwood: That may be hanging a bit too much on this piece of legislation. I think this is a wider issue, which Parliament may need to consider, so I was not going that far in my recommendation. However, Ministers would be well advised, if by any chance they did make a mistake in a draft instrument, not to do what the previous Government did and just drive it through, but to accept that they needed to withdraw it and to come back with a corrected version, which would make for better order.

The Bill as drafted, with the amendments to provide a process to make the task of parliamentary scrutiny manageable, is a perfectly sensible package, and I look forward to hearing sensible promises from Ministers on the Front Bench, who I am sure will want to exercise these powers diligently and democratically.

Tommy Sheppard (Edinburgh East) (SNP): I rise to speak to amendments 264, 222, 73, 234, 239, 240, 266, 269 and 272, in the name of my right hon. Friend the Member for Ross, Skye and Lochaber (Ian Blackford), and amendment 233, in the name of my hon. Friend the Member for Airdrie and Shotts (Neil Gray). I will also speak in general terms to amendments 206, 268, 271, 274, 216, 265, 207, 208, 205, 267, 270 and 273, in the names of my hon. Friends, which are grouped for debate today, but which will be voted on tomorrow. May I also say that I hope the hon. Member for Cardiff South and Penarth (Stephen Doughty) will push his amendment 158? It was debated earlier in Committee, but it is very germane to this debate. *[Interruption.]* I read that list out because I could not possibly memorise it.

As I said on Second Reading, we are in a dilemma of our own making. We are discussing the possibility that all these powers should be given to Ministers simply because we have not adequately prepared for the process of leaving the European Union. It is three months now since Second Reading, and we do not appear to have

gone one step forward in terms of knowing what the effects of that process will be on the body of legislation that already exists in the United Kingdom.

Anna Soubry: It is really quite important to understand that this is the process of leaving the European Union, and it has nothing to do with being unprepared in any way. It was always known—well, in as much as we ever knew anything about Brexit—that this was the sort of thing we would have to do to convey this huge body of EU law into domestic British law, and, on that, we are all agreed.

Tommy Sheppard: The right hon. Lady has much greater faith in the Government's intentions than I perhaps do. What I am trying to suggest—I thought she might possibly agree with me—is that, by this stage in the process, we ought to have some definition of which Acts of Parliament will require amendment, because there are anomalies in them with regard to the body of EU retained law, and we ought to have narrowed down the number of areas in which we have to give Ministers the power to use their discretion and to bring forward changes through delegated legislation to our existing legislation. The fact that we have not narrowed that down and that we are still talking about giving Ministers quite sweeping and general powers is quite alarming, and I only hope that, as we go to the next stage of this process, we will get more clarity. Ministers' defence is basically to say, "Trust us to rectify these anomalies and to get things right," but Opposition Members are saying, "Well, we would be better able to trust you if we were able to get a reassurance that you are not going to use these powers in certain areas." Yet, Ministers are resisting every attempt to qualify and limit the exercise of these powers.

Tom Brake: I would like the hon. Gentleman to cast his mind back to before 23 June last year. Can he recall prominent leave campaigners suggesting at any stage during that campaign that there would, in fact, be this very large power grab and that taking back control meant the Executive taking power away from Members of Parliament?

Tommy Sheppard: No, the implication was clearly given that control would be taken back by the people. In fact, it seems that control is being taken back by the Executive. In as much as power is going anywhere, it is not coming into this Chamber, certainly at the moment.

Joanna Cherry (Edinburgh South West) (SNP): I was struck by the rather sweeping statement by the right hon. Member for West Dorset (Sir Oliver Letwin), in reference to clause 7, that we apparently all know what "appropriate" means and that the courts will know what "appropriate" means. Does my hon. Friend, like me, look forward to hearing from the Minister what "appropriate" means, and does he, like me, agree with such distinguished lawyers as those at the Law Society of Scotland and JUSTICE that "appropriate" gives far too wide a discretion to the Government?

Tommy Sheppard: I do indeed, and I will come on to that in just one moment.

Helen Goodman: I just want to back up the hon. Gentleman's request for more information from the Government. In our report, the Procedure Committee called on the Government to publish

"as soon as possible…an outline schedule for the laying of instruments before the House."

The hon. Gentleman is absolutely right: we still do not know what the Government have in mind.

Tommy Sheppard: If we had some more of that detail, we would be a little more reassured, and we would not be able to attribute anything other than good intentions to the Government in this process. However, that is not the situation we are in at the moment.

Words are extremely important in this process, because words and meaning have to be shared for us to move forward. If we look at what happened last Friday, we can see a clear example of how one set of words can mean two entirely different things to two different people. It looked as if the Prime Minister—I am sure she genuinely believed this—was signing an agreement on behalf of this country with the 27 other member states of the European Union. She described it as a series of commitments that were being made by this country at this interim stage in the process. Within 24 hours, however, we had the spectacle of one of her closest advisers turning round and taking to the public airwaves to say that these were not commitments at all, but merely a statement of intent. He was sternly reprimanded and corrected the following day, but that does show that, unless we are very careful and precise about the words we use, there is scope for ambiguity and, therefore, misunderstanding.

The first word we should be very careful about is "deficiency", which appears throughout the Bill, and which is the subject of several of the amendments I am talking to. The word "deficiency", as it appears in the Bill, need not necessarily mean the absence of something; the EU retained law being brought over could also be deficient if it contains something that prevents the Government of the day from doing what they want to do. I do not want to engage in hyperbole or to give dramatic, unreasonable examples, and I am sure that, for the vast bulk of things, we would all expect to have primary legislation to make policy change, but this issue does open up the scope for making significant policy changes without reference to this Parliament or to primary legislation.

We have already had mention of the working time directive—the 48-hour limit on weekly work. I am not suggesting that the Government would necessarily want to use these powers to overturn completely that and to substitute 48 with 72. However, a Minister in the future—in the period of transition—might well find that the 48 hours is overly prescriptive in a mandatory sense, and might choose to make it more of an advisory notion, rather than something that is absolute and that can be challenged. With the stroke of a pen—overnight—the rights at work of millions of people in this country could simply be eroded. If the Minister is saying that that is not the intention and that it will never happen, he should support amendment 75 in the Lobby tonight, which will make sure that will not happen, because it will exempt workers' rights from the scope of the legislation.

Tim Farron (Waterford and Lonsdale) (LD): The hon. Gentleman is making some excellent points, and I would like to back him up on them. Would it be worth reflecting on the fact that, rightly or wrongly, being in the European Union means that we make some colossal policy assumptions?

[Tim Farron]

On environmental matters, one of those assumptions is that it is right that we invest public money in farming to make sure that we protect our countryside. However, we also, without ever having a debate in the House about it, assume that it is right to, effectively, subsidise food in this country. We may now be in a position where we are about to accept that assumption or to move away from it, with colossal consequences for the whole of our society.

Tommy Sheppard: The hon. Gentleman makes a very good point that is a further illustration of the dilemma that is now facing us.

3 pm

I want to give another example that is minor but of some significance. At the moment, European regulations provide for people to get compensation if their flights are delayed. That includes short delays, whereas in most parts of the world insurance is provided only if a flight is delayed for more than 24 hours. Let us suppose that after exit day the Government were lobbied by airlines, airports or whoever to say that they wanted to restrict the scope of that legislation because it was not compatible with policy in this country. It would then be very simple for the Government to make a qualification of 24 hours' delay before compensation could be paid through any scheme that they brought in. That is a simple thing that does not sound dramatic, but it will affect thousands of people every year out of the many millions who make these journeys.

Mr Baker *rose—*

Tommy Sheppard: I will give way in a moment, but I want to give a third example, which the Minister may also wish to talk about, regarding the common agricultural policy. At the moment, Scottish farmers are waiting on £160 million of refund payments under the CAP because of the way that it was changed in recent years. The way in which those payments are to be distributed is currently the subject of EU regulations, but what if the Government felt that that was somehow unfair and they wanted to change it? Then, without reference to primary legislation and or to Parliament, they could do so, and the material amount of money that farmers would get would be different from what they expect now. That is just a simple illustration of how these policies could change. I now happily give way to the Minister if he still wants to intervene.

Mr Baker: Could the hon. Gentleman revisit each of the examples he has given and explain why he thinks that they would be deficiencies arising from our withdrawal from the EU, because having listened carefully to him, I do not think that, as my hon. and learned Friend the Solicitor General is saying, any of them could be classed as deficiencies arising from our withdrawal?

Tommy Sheppard: I do not think that they are deficiencies—that is not my point. My point is that a Minister or a future Minister might regard them as deficiencies, and therefore might change the law in this way.

Dan Carden (Liverpool, Walton) (Lab): The hon. Gentleman has talked about the importance of language in this debate. Should we not all be worried by the actions of this Government over the latest rise in tuition fees, where they refused a vote in this House and ignored an Opposition day debate? The actions of this Government should worry us all when we look ahead to these future arrangements.

Tommy Sheppard: Indeed so. There is always the danger that some of the policies that Government may wish to get through, and would run aground were they to try to introduce them through primary legislation, may be sneaked through the back door in a salami-style way. We do not know. The point is that we are being invited to give Ministers the power whereby these things could happen.

Mary Creagh: I understand and sympathise with the hon. Gentleman's point on deficiencies. Does he agree that over the weekend we have seen varying interpretations of the meaning of full regulatory alignment, which seems to mean all sorts of different things to different people as the Cabinet tries to have its fudge and eat it?

Tommy Sheppard: Indeed. While I am tempted to digress into a debate on what happened with the phase 1 agreement and regulatory alignment, I think I had better stick to the subject in hand.

With regard to defining "deficiencies" properly, amendment 264 calls on the Government to provide reassurance by bringing forward clear definitions of what they might mean by "deficiencies". If we had that, we might be better able to consider whether to give them these powers.

Sir Oliver Letwin: I do not know whether it would be possible to find definitions that would help. However, the hon. Gentleman seems unwilling to accept, or certainly has not alluded to, the fact that secondary instruments, as opposed to primary legislation, are justiciable. Our courts are quite used to concepts like deficiency and appropriateness. Is that not what we are relying on—the action of the courts?

Tommy Sheppard: I accept that these things may be challenged, but I am trying to argue for a democratic process whereby it is the elected representatives of the people who debate and choose the policy direction in various areas.

Joanna Cherry: Is the point not really that, as has been pointed out by JUSTICE and the Law Society of Scotland, the term "appropriate" is so wide that it gives the courts a breadth of discretion that they themselves have told us that they do not want?

Tommy Sheppard: Indeed. That takes me nicely to my next point, which concerns the word "appropriate".

Sir Oliver Letwin *rose—*

Tommy Sheppard: Can I make a little progress? I do not usually say that, but I am barely halfway through at the moment.

The word "appropriate" is one of those words that is so open-ended and ambiguous that it could literally mean all things to all people. That is why I am a big fan of amendment 2, in the name of the right hon. and

learned Member for Beaconsfield (Mr Grieve), which attempts to give some definition to what we mean by "appropriate". I was not quite sure what he was implying about pressing it to a vote, but I hope that he is going to—I would be very happy to support it.

Amendments 205, 206, 216, 17 and 265 also attempt to define the word "appropriate", with the effect of substituting the word "necessary". That is a much more agreeable term, because "appropriate" is subjective: what is appropriate for one person may not be appropriate for the other, but what is necessary has to be evidenced by reasons. If something were to be appealed and come to court, it would be much easier to question necessity than appropriateness. These amendments would also be useful.

Let me now talk about the aspects relating to devolution—again, without getting into the phase 1 agreement. Clearly, the whole matter of how powers are exercised by Ministers, whether those powers are residual or broad-brush, has a critical impact on the devolved Administrations. I hope that the Committee will support amendment 161, which requires Ministers to get the consent of devolved Administrations when they are making secondary legislation on matters that affect them. I hope that that sort of qualification will be uncontroversial, but I dare say that it will not be.

Perhaps the most important amendment is 158 in the name of the hon. Member for Cardiff South and Penarth. It simply says that the Scotland Act 1998 and the Government of Wales Act 2006 should be exempt from the set of powers that we are giving to UK Ministers to bring forward secondary legislation. The Government already accept that the Northern Ireland Act 1998 has been exempted, so Ministers need to explain why they would exempt one devolved legislature and not the others. How can it be justified in one place and not in the others? Surely it is a simple matter of common sense to say that this provision should confer on UK Ministers an exercise of power in relation to the matters that this Parliament is responsible for, not in relation to those that other Parliaments are responsible for.

I want briefly to mention human rights. I appreciate that the Secretary of State has tabled an amendment, now to be part of what we are discussing, in which he refers to examining the equalities implications for any particular piece of legislation. However, we can do more than that. I want to know why the amendment says that we should exempt the Equality Act 2010 and the Equality Act 2006 from the powers being given to Ministers. If the Government do not accept that, there is always the danger of people implying from their actions that they may wish to do something that would constrain or overturn some of the safeties and securities in those Acts.

Let me talk about the experience that this place has in making secondary legislation. This will not be so important, I suppose, if we end up with a tiny number of residual matters that need to be considered in this way, but if that is not the case—if, because of a lack of legislative time, the Government try to put an awful lot of matters through secondary legislation—then we will be very ill-equipped to deal with that.

Like many Members, I have sat on Delegated Legislation Committees. They are effectively a rubber stamp; we hope that the officials and civil servants who draw up the regulations have worked them out, double-checked them and made sure of them, because we rarely get the opportunity to get into a debate. I well remember a recent Delegated Legislation Committee to which I turned up determined to get involved in a discussion of what the regulations were about, to the dismay of other Members. They were dismayed not by the content of what I said, but by the fact that I said it and made the meeting last 30 mins rather than three, so they missed their subsequent appointments.

That is how Delegated Legislation Committees work at the minute. People regard them as a rubber stamp and something of a joke. If we did not have faith in our civil service and those who prepare the regulations, we would be in a bad way indeed, and that cannot continue. I accept that the amendments tabled by the Procedure Committee are an attempt to overcome many of those deficiencies, but I think that they are baby steps. Of course they are worth taking, but they are minor changes to our procedures. If we try to load on to the existing procedures a vast array of secondary legislation, those procedures will not be fit for purpose and we will end up making bad and ridiculous legislation.

The debate has been about Henry VIII powers. I hope that those who argue for such powers do not go the way of the architect of the previous Henry VIII powers, Thomas Cromwell, and end up in the Tower or dead. I am sure that they will not, but I caution them, when they are considering how much power to give to Ministers—how much power to transfer from the legislature to the Executive—to take a minimalist rather than a maximalist perspective. If they do not, those of us who argue that this is a major power grab by the Executive from the legislature will be entirely justified in doing so.

I urge Ministers to tell us this in their summing up: if they reject every single amendment that is designed to constrain their area of operation—to define the manner in which they might exercise judgment on such matters—what on earth are they going to do instead to reassure this House? We need to know that we are not giving them carte blanche to go forward and do what they want without reference to the democratically elected representatives of the people in this country, for whom control was meant to have been taken back.

Tim Loughton (East Worthing and Shoreham) (Con): I am grateful for the opportunity to speak. I will do so perhaps rather more briefly and concisely than many others have done, because I know that lots of people want to contribute to this debate.

Up to now, I have sought not to encumber the House and the Government with lots of amendments to an already extensive and comprehensive Bill. I have certainly sought not to bind the Government's hands in the very difficult process of exiting the EU in the months and years to come—particularly in the complex and important negotiations, which received a substantial boost last Friday. No hon. Member should be in any doubt that there is a serious and growing prospect of our agreeing to a mutually beneficial conclusion to the Brexit negotiations. Why would anybody in this House not want that to happen?

There is, however, an aspect of the Bill that merits a new clause. I am speaking primarily to new clause 53, which is in my name and that of other right hon. and hon. Members from all parts of the House. The new clause is designed simply to perpetuate an existing

[Tim Loughton]

arrangement in family reunion rules. We should take great pride in our involvement in that arrangement. Many of us are concerned that if it does not continue, vulnerable children who are fleeing conflict in the middle east, in particular—this House has heard much about them in the last few years, and is familiar with the situation—could be detained in places of danger. We are doing much to help such children, and we need to do more.

I have seen at first hand the benefits of the Dublin arrangements. My right hon. Friend the Member for Loughborough (Nicky Morgan) and I went to Athens as the guests of UNICEF earlier in the year to visit the refugee projects. I am aware that many other hon. Members have been to Greece, Italy and Calais to see the results of getting it wrong further up the line. The situation in Italy, in particular, is rather more extreme than that in Greece. In Greece, we saw UNICEF and other aid agencies working with a Government under great pressure, and doing a pretty impressive job. Some 30,000 refugees arrived in Greece in 2016, but the number of arrivals has since fallen to a more manageable level. That—not least the almost 3,000 unaccompanied children among those 30,000 refugees—still represents a serious challenge, however.

3.15 pm

I pay tribute to the aid agencies for working within the existing rules in very difficult circumstances and doing their very best. They have been helped, quite rightly, by a lot of aid money from this country, and any doubters of the benefit of our aid budget should go and see at first hand what we are achieving. We were particularly impressed by the work of the British Council, which brings together unaccompanied child refugees from a number of different backgrounds, languages, cultures and countries and gives them a meaningful education. That gives them the hope and aspiration that they will be able to carry on a normal life at some stage.

With winter upon us, the situation in Greece is far from satisfactory. There are almost 2,000 unaccompanied children on waiting lists just for accommodation shelters in Greece. The conditions on the islands, where many who have come across the Aegean end up, are far from satisfactory, and it still takes far too long to get those children to places of safety, permanence and some degree of stability. That is why my right hon. Friend and I have tabled this new clause, which I am glad to see has been supported by many other hon. Members.

My right hon. Friend and I disagree on much about the process of Brexit, although I hope that the number of things on which we disagree is reducing as she sees the inevitability of what will happen. On the subject of family reunion rules, however, we are absolutely at one. We saw at first hand orphaned children and unaccompanied children trying to reach relatives in countries across the EU. Some children had been sent there from Syria to escape the bombs raining down on places such as Aleppo. Some had been sent there to escape conscription into the Syrian army and an ensuing murky existence.

Under current EU law, an unaccompanied child can apply to be reunited with his or her close family in any other state that is a signatory to the Dublin convention—currently the Dublin III regulations; it will transform into Dublin IV at some stage in the future—but there is a disparity between the UK's refugee family reunion rules and the Dublin III regulations. The UK's own rules enable refugee children to be reunited only with their parents, whereas Dublin III allows unaccompanied asylum-seeking children to be reunited with their adult siblings, grandparents, aunts and uncles, as well as their parents. That discrepancy has left many children with little choice but to make the dangerous journey to Europe to reach safety with family in the UK.

We met many articulate, well-educated teenagers, some of whom had lost their parents and were looking to go to other countries in Europe—primarily Sweden and Germany—where they had the last vestiges of family connection. Quite often, those connections were with siblings, or uncles and aunts. For those young people, it was the only available bit of stability and continuity with their previous existence in places such as Syria.

Tim Farron: I commend the hon. Gentleman for all the remarks that he has just made. I, too, have visited many camps and spoken to unaccompanied child refugees. Does he agree that the case he is making serves as a reminder that our acting honourably and decently, as a country and a continent, does not constitute a pull factor—we are simply responding to the push factor of the appalling circumstances from which those people are fleeing?

Tim Loughton: The hon. Gentleman's interest in this subject, like that of most others in the House, is exceedingly well founded, but I do not want to confuse the Dublin scheme with other schemes, about which we have had debates in this country.

This approach is aimed at—Government policy is also, quite rightly, aimed at—trying to keep children who have lost their parents or become separated from them in places of safety. Where possible, such places should be close to their places of origin, from where they may, if possible, be repatriated to countries such as Syria. They can be housed in communities who speak the same language and have similar cultures, which will provide some degree of continuity in their otherwise traumatic, ruptured existence. When that is not possible and there are family members in other European countries, the children can be given stability with them.

I do not want to get into the schemes, such as those set up in the past by other countries, that I am afraid have acted as a magnet for children who, at the hands of people traffickers and others, have taken to boats in very dangerous circumstances. The policy of this Government has been the absolutely right one of trying to keep such children out of the hands of those who want to profit from human misery and take advantage of their desperate circumstances.

Stella Creasy (Walthamstow) (Lab/Co-op): It may disturb the hon. Gentleman to know that I have signed his new clause, and I agree very much with him and the right hon. Member for Loughborough (Nicky Morgan) on this issue. This weekend, I was in Calais, where a 10-year-old is sleeping rough because we do not have the systems in place under the legislation to be able to assess his right to be in the UK. Does the hon. Gentleman agree that what is so important about the amendments to protect the Dublin process is not just its principles, but its practice and what happens if and when we leave the European Union?

Tim Loughton: I am not alarmed by the fact that the hon. Lady has signed my new clause 53; I am flattered and encouraged. I would expect nothing else from the hon. Lady, who has taken an interest in this area. However, Calais is a sign of failure: it should not be happening. We should be dealing with those children closer to home, or leapfrogging Calais altogether and placing them in places of safety in the United Kingdom, Sweden or France itself. The issue is baffling to me—I have spoken about it many times. If what is happening in Calais was happening in the United Kingdom, our children's services would be placing those children in a place of safety, not allowing them to remain at liberty and be exposed to people traffickers, sex traffickers and all sorts of other criminals who would harm them.

I want to get back to what my new clause attempts to do. As we leave the European Union and therefore Dublin III, the UK's different—in this case, slightly more restrictive—immigration rules will provide the only means by which refugee children can be legally reunited with their families. As the UK looks to improve our own laws through the European Union (Withdrawal) Bill and to replicate the provisions ensuring that children stranded in Europe can be brought to join asylum-seeking family members in the UK, it is imperative that it should broaden the scope of the definition of "family" in our own British immigration rules so that these are in line with the current European ones. That will allow children to be reunited with close family members, wherever they are. Hence the importance of continuity and of perpetuating the existing situation, which works well; it could work better, but the principle is certainly absolutely right.

The UK's immigration rules can apply to children anywhere in the world, and they therefore provide a safe and legal route for children, avoiding the need for them to embark on perilous journeys to Europe, which have been discussed. We need to build on this very positive aspect of the rules. The UK should amend its immigration rules on refugee family reunion to allow extended family members who have refugee or humanitarian status—adult siblings, grandparents, aunts and uncles, as I have mentioned—to sponsor children in their family to join them in the UK when it is in the child's best interests to do so. That point about the child's best interests must be absolutely paramount, as it is the basis of all our child welfare legislation in this country. After years of conflict, many of these children have been orphaned or do not know where their parents are, but they may have grandparents, aunts and uncles, or adult brothers and sisters in the UK, who can care for them.

If these changes were made to the UK immigration rules, that would enable children to be transferred from their region of origin and reunited in a regular, managed and safe way. Refugee family reunion transfers would all be processed by UK embassies or consulates, meaning that we could take back control of this process and ensure it works at a speed—it needs to be quicker than it is now—that is in the best interests of the children.

Without the changes, children will continue to be vulnerable in being forced to take dangerous journeys and put themselves at risk. The whole thrust of our asylum policy on looking after these vulnerable children has been to keep them away from such harm. Last year, some 700 unaccompanied refugee children were united with their families using the European system, which is on top of all the other schemes to which the UK currently subscribes.

I hope that my new clause is a helpful probing amendment. I am grateful to the Minister for Immigration, who has met my right hon. Friend the Member for Loughborough and me to discuss this issue. He is sympathetic to what we are trying to achieve. I acknowledge that the timing of the new clause might be better in a forthcoming immigration Bill, but it is useful to put it on the record now to get a comment from Ministers about the Government's intentions at the appropriate time and perhaps with more appropriate wording; the word "appropriate" continues to appear.

My new clause is intended to build on the good work that the UK Government have done for so many thousands of child refugees so far. That good work has resulted from the huge investment—now of over £2.3 billion on Syrian refugees alone—aimed at frustrating the people traffickers and others who would harm these very vulnerable children. Such a change would show that the United Kingdom intends to continue, after Brexit, to be a leading force for humanitarian good outside the EU on the basis of British principles, British attitudes to the welfare of the child and British generosity in looking after, as we have done for so many years, those most in need. This system works, and we must make sure that it continues to work after Brexit.

Yvette Cooper (Normanton, Pontefract and Castleford) (Lab): I rise to speak briefly to amendments 48, 49 and 52 in my name. They have cross-party support, including from other Select Committee Chairs, because they are about safeguarding the role of Parliament and preventing the concentration of power in the hands of the Executive.

Before I talk in detail about those amendments, I want to support new clause 53 and the words of my Home Affairs Committee colleague, the hon. Member for East Worthing and Shoreham (Tim Loughton). He is right that we need to continue with our historical obligations towards refugees and with the principle of family reunion, ensuring that child refugees are not separated from their family and do not lose their rights to be reunited with family members who can care for them, especially when families have been separated by persecution and conflict. He is also right that this is about preventing the people traffickers, the exploitation and the modern slavery that can cause such harm and blight so many lives.

Our Committee has often found evidence that leads us to want the Dublin III process to work faster and more effectively, not for the principles behind it to be ripped up and thrown away. I therefore welcome the fact that, as the hon. Gentleman has said, Ministers have shown an interest in supporting the continuation of these historical obligations. I hope that that will be addressed if not in this Bill, then in either an immigration Bill or in the withdrawal agreement Bill in due course.

The amendments I have tabled to clause 7 address the concern, raised by so many of us, that Parliament is being asked to hand over considerable powers to the Executive without sufficient safeguards. That concentration of powers in the hands of the Executive—a concentration not seen since the days of the infamous Tudor monarch—goes against the very reason why all of us were elected

[Yvette Cooper]

to this place: the legislature has an historic obligation to place checks on the power of the Executive, in order to prevent concentrations and abuses of power, in relation to Brexit or to anything else. It is an obligation that each of us takes on when we swear the oath at the Dispatch Box.

3.30 pm

I welcome the restrictions and new processes that the Procedure Committee has proposed, but I do not think that they go far enough to address the potential concentrations of power in clause 7. It would still be up to Ministers to decide whether to accept the Committee's advice on whether to use the affirmative or negative procedure. Either way, the clause, as drafted, still allows Ministers to use secondary legislation for an immensely wide range of amendments to primary legislation, and in a way that is not restricted to what is needed for the Brexit process. The clause allows Ministers to use delegated legislation wherever they believe that to be appropriate, giving them huge powers of discretion to decide what they think any failure of retained EU law to operate effectively means, or to decide what constitutes a deficiency in retained EU law.

Instead, amendment 49 would introduce a necessity test. It states that powers should be used only when they are needed

"to adapt the body of EU law to fit the UK's domestic legal framework."

Such a "necessity clause" was recommended by the Lords Constitution Committee and the Lords Delegated Powers and Regulatory Reform Committee. I cannot see what the objection would be to including such a clause in the Bill. Ministers have said that the purpose of the clause 7 powers is to do what is needed, so why not make that clear in the Bill? "Necessary" is a much higher legal threshold. As the Bill is currently worded, Ministers will simply have to demonstrate, if faced with a legal challenge to their use of these powers, that they took a reasonable view that something was appropriate. With a necessity clause in place, they would have to satisfy the courts that the regulation was in fact required to address the deficiency in question.

When we are talking about giving away Parliament's powers to the Executive, and such far-reaching powers, surely there should be a higher test of the circumstances in which they can be used, rather than just when Ministers think it is appropriate. Surely we should do that only when it is really needed. We always hand over power to the Executive when we give powers to make secondary legislation, but in clause 7 we are also giving Ministers huge scope to decide how and when those powers should be used.

Amendment 48 sets out another way to tighten the scope of delegated powers. It would put in place the same safeguards currently set out in the Legislative and Regulatory Reform Act 2006. It would require any changes to be proportionate and it would require Ministers not to remove any necessary protections or rights and freedoms. It is similar to amendment 2, tabled by the right hon. and learned Member for Beaconsfield (Mr Grieve). It reflects the fact that Parliament has previously given the Executive powers to make secondary legislation, but in the 2006 Act we also put in place a whole series of safeguards. Not even to put those safeguards in the Bill seems extraordinary. Those are the safeguards that Parliament has previously agreed in order to prevent abuse, and I think that they, as a minimum, should be used for this Bill.

Amendment 52 would provide further protection for equalities legislation. There is no justification for reducing the level of legal protection against discrimination afforded by the Equality Act 2010, and the amendment would simply make that clear in law. The Equality Act is the culmination of decades of domestic protection for equalities, and I see no reason to amend, repeal or revoke any bit of it as a consequence of Brexit. The Government have instead put forward amendment 391, but it is insufficient, frankly, because all it would do is require Ministers to make statements that they have had regard to equalities legislation, and if they do not make a statement then another Minister has to make a statement as to why. Why not simply prevent the Government from using clause 7 to repeal, change or reduce the provisions in the Equality Act?

Amendment 52 would have the same effect as amendment 25, tabled by those on the Opposition Front Bench. If they press their amendment to a vote, I will not press mine, but I believe that there should be a vote this evening on the issues of necessity and restricting the powers in clause 7. If other Members, such as the right hon. and learned Member for Beaconsfield, do not intend to press any of their amendments on a necessity clause to a vote, then I would like to press my amendment 49.

In conclusion, this is simply about Parliament standing up for itself and ensuring that it does its job: scrutinising the Executive and ensuring that when we give them powers—of course, we do need to do so in the proper circumstances—we ensure that we put the right safeguards in place, the right checks and balances, as we have an historic obligation to do. It simply means that we do not believe that this should be done through a concentration of powers, and we think that these powers should be used only when they are needed.

Mr Grieve: It is a pleasure to follow the right hon. Member for Normanton, Pontefract and Castleford (Yvette Cooper). I draw the Committee's attention to my new clause 82 and amendments 15, 1, 388, 5, 2, 389, 16, 13, 3, 4 and 12. I apologise to the Committee for so burdening the amendment paper this afternoon, but that simply reflects the importance of clause 7 and the fact that, while there are many important aspects to the Bill, clause 7 and the powers that the Government intend to take in order to deal with deficiencies arising from the UK's withdrawal are so controversial.

I remember a long time ago, when I was newly elected to this place, listening to a debate in which an Opposition Back Bencher, also newly elected, asked why we have Second Reading debates at all, because, in view of the size of the Government majority, they were bound to be a foregone conclusion. She suggested, as I recollect, that in the circumstances Second Reading should be merely formal and that we should move straight on to the Committee stage. The issue before us today touches directly on what was said then, because it is not only a question of parliamentary sovereignty that is at stake, and the extent to which we want to hand over power to the Executive; it is also a question of whether we want

to maintain the rule of law by good governance. This House, not without good reason, has over time evolved processes and procedures that present the Government with hurdles when it comes to the enactment of primary legislation. We take Bills through Second Reading, Committee, Report and Third Reading precisely because we, and our forebears in this place, have come to understand that that is the way, by a process of debate through which we moderate each other's ideas, we are likely to achieve the most sensible outcome. Indeed, we have been doing that consistently. I praise the Government for the time they have given us to do precisely that on the Bill.

However, that is the very reason why we should be so cautious when the Government ask us to change the rulebook, for what are undoubtedly primary legislative changes, to give them the power to bring about all those changes by statutory instrument. It may be that statutory instruments can be debated—although in many cases, as we know, they are not—but the fact remains that the process of debate, particularly if it touches on matters of importance, is likely to be incomplete and unsatisfactory. My right hon. Friend the Member for Wokingham (John Redwood) so tellingly made the point about the deficiencies of our statutory instrument system in relation to not being able to ask Ministers to go away to consider the deficiencies—if I may hijack that word—in their own proposals.

That is why I have found clause 7 particularly difficult in the context of being able to support the Government. There are two ways in which the challenges of clause 7 can be met. The first is to improve the scrutiny process by which the House goes about its business. The second, as has been suggested by the numerous amendments I shall come back to in a moment, is to try to restrict the scope of the powers the Government have taken, or at the very least to get the Government during the course of the passage of the Bill to justify each and every one of them.

On the scrutiny process, the Government have moved. I tabled amendment 3, which appears on the selection list for debate this afternoon, because I went to the Hansard Society, as I am sure other hon. Members did, and got its assistance in looking at ways in which our scrutiny processes might be improved. Amendment 3 and the consequential amendments derived from it came from that exercise. I have to say to the Minister—I again endorse my right hon. Friend the Member for Wokingham; I am sorry he is not in his place to hear my eulogy of him—that we very badly need a total reform of our statutory instrument system. It is deficient in a whole range of matters. The Bill provides a possible opportunity on how we might make a significant change: providing a proper triage mechanism, giving the House a degree of control over the process, allowing for a dialogue between the House and the Minister, and still enabling statutory instruments to be enacted.

The Government, who I appreciate are under a lot of pressure over a whole range of matters, in particular the word "time"—which I think Monsieur Barnier keeps on repeating, but it is a matter with which we all in this House have to concern ourselves—have been reluctant to do that. In has stepped my hon. Friend the Member for Broxbourne (Mr Walker) to tell us that he has a different way of approaching this. Looking at the Procedure Committee's proposals, I am impressed by what his Committee has achieved. I continue to have some reservations about some aspects, in particular the point highlighted by my right hon. Friend the Member for Wokingham on the inability to engage in preliminary dialogue and to ask for revision, but for the purpose of dealing with the avalanche of statutory instruments about to come in our direction the amendment that has been tabled will enable the House to do its job properly.

Much is going to depend—I hesitate to say this, because in this House we are all equal—on the Government's common sense on how those who are to be appointed to the Committee are chosen. There are plenty of Members on all sides who have a keen understanding of what a statutory instrument is, a keen understanding of how it should work and an ability to sniff out when it is being misused. It is those individuals, if I may say so to my hon. Friends and to the Whips on the Government Front Bench, who ought to be appointed. Without that, a committee will have no credibility at all. I appreciate that we will have to move on to consider Standing Orders. If we do this properly and with good will on all sides, my assessment is that the Government will be helped.

3.45 pm

It may well turn out that some of the many technical amendments that are going to clutter us up can be disposed of more effectively and with greater confidence from this House that the job is being properly scrutinised. On that confidence will depend whether Ministers are summoned to this House to answer urgent questions. Just imagine what would happen were a Minister to refuse to follow the advice of the committee. I simply make this point gently to my hon. Friend the Member for Wycombe (Mr Baker)—he is the Member for Chepping Wycombe as well as High Wycombe, as we both know, so the hon. Member for Rhondda (Chris Bryant) was not quite so wrong earlier to refer to him in that way. [Hon. Members: "Chipping?"] Chepping Wycombe.

I do not wish to see my hon. Friend the Minister dragged to the Dispatch Box to answer in such a situation and, ultimately, I think that as the statutory instruments go through we will see growing confidence in the process. That will help the Government; it will help the House; and it will help the country to get through this enormous, colossal mountain of SIs.

Mr Jenkin: May I take it therefore that my right hon. and learned Friend is offering his services on this committee?

Mr Grieve: I am already the Chairman of another Committee of Parliament, and I think it might be undesirable to burden me with extra work. Indeed, there are plenty of other people in this House who are capable of doing this work. Obviously, if somebody wanted to ask me, I would give it consideration, but I am always conscious of being rather too thinly spread as it is, so I do not put myself forward.

Tom Brake: Can the right hon. and learned Gentleman set out how he thinks the process of scrutiny will be improved for outside organisations? Many of them feel that they are excluded from this process.

Mr Grieve: Such organisations can be summoned before the new Select Committee. They can come along and provide input to the committee on anything that has been tabled; that has been my understanding of

[Mr Grieve]

how it would work and, indeed, my hon. Friend the Member for Broxbourne, sitting to my right, has just confirmed that. There is a mechanism here. Obviously, to come back to the point I made earlier, this depends on the quality of the committee and shows why it will be so important. It also comes back to the Procedure Committee and how it works. For all those reasons, I think that this is a workable arrangement.

Vicky Ford (Chelmsford) (Con): On the quality of the committee and the scrutiny process, the committee will be scrutinising changes to detailed pieces of European legislation. In my experience, in other countries' Parliaments, an expert committee often does the scrutiny. So financial experts would consider a piece of finance legislation; environmental legislation would be considered by environment experts; and a judicial piece of legislation might be considered by those involved with their justice committee. Does he agree that it would be sensible to include Members with expertise in the underlying legislation, as well as in British legal practice, on the committee?

Mr Grieve: That would be a very sensible course of action. As I say, the burden is on the Government to show some common sense and inventiveness in how they approach this. My understanding is also that, as was mentioned earlier, the committee will not have a Government majority—

Mary Creagh: Eight and eight.

Mr Grieve: Indeed. To that extent, it will, as I understand it, have sufficient flexibility and will, I hope, also be able to command enough confidence. These are difficult issues, but, as I say, I am mindful of the fact that my right hon. and hon. Friends on the Treasury Bench, having been asked to consider this, have gone and done it in a conciliatory and sensible spirit. For that reason—we were talking earlier about trust—this is one matter on which I have trust in the way that they have responded and that this will be sufficient for the work we have to do.

In the longer term, this issue will not go away, and I feel strongly that this House ought to be thinking about how it can assert itself again to take a better system of scrutiny than that which we have at the moment. Heaven knows, I have sat through enough of these Committees to know their deficiencies. It is also noteworthy that, although some jurisdictions have specialist committees linked to each of their select committees to consider legislation, we do not—something I have always found mystifying. I also served for four years on the Joint Committee on Statutory Instruments. It was a very interesting Committee, but, again, it did not really have the necessary bite to correct what were sometimes egregious howlers, of the kind that my right hon. Friend the Member for Wokingham pointed out.

I turn now to the other way this matter can be looked at: by trying to constrain the powers the Government are taking. Of course, the vast majority of the amendments I have tabled along with my right hon. and hon. Friends concern constraining those powers. For example, amendment 2, which has been mentioned, would use a process first introduced in 2006 in seeking to constrain the powers set out by applying the concept of reasonableness and proportionality. Another example is my amendment 1, which would leave out the words

"(but are not limited to)",

and so limit the deficiencies to the list of powers and functions set out in clause 7(2).

The Government have here an enormous menu of options by which the powers in clause 7, and indeed elsewhere in the Bill, can be constrained. I do not want to repeat some of the things we have said in earlier sittings of this Committee. The question for me is: how will the Government respond? There is a legitimate argument from the Government, which I have heard and listened to, that they ought to go away and consider the variety of amendments—mine are not the only ones; a great range of amendments have been tabled from across the House, and each, in my judgment, is valid. The Government have to come up with a response on how they can constrain the powers set out. At the moment, my opinion is that these powers are far too stark, far too great and not necessary. My right hon. Friend the Member for West Dorset (Sir Oliver Letwin), to whom I also always listen very carefully on these matters, approaches this matter from a slightly different angle, so I was interested to hear him say that he thought the powers were excessive and unnecessary—I hope that I do not paraphrase him wrongly.

In those circumstances, the Government have to think again. I do not want to be particularly prescriptive, because it seems to me that there are a range of ways in which this could be done. I want to hear from Ministers this afternoon broadly how they will respond to the amendments and give some thought to coming back on Report with a constraint on the powers set out. There are probably two ways this can be done—indeed, we could do both. The first is to accept some of the amendments. On my amendment 1, for example, I continue to be bemused that, in view of the extensive nature of subsection (2)(a) to (g), it is in fact necessary to provide a further power. I think that there are excessive jitters within Departments. Somebody ought to have the courage to say, "Find me some examples that fall outside the scope," and if they can, they should add those to the list and take out the unlimited nature of the powers at the top of the clause.

I accept, picking up something that was said earlier in Committee, that the word "deficiency" provides some constraint. I take the view that if an attempt were made to extend the use of the powers outside of correcting a deficiency, it could be challenged in court, but we do not want to end up with court challenges. I say to Ministers that that would be the worst possible place to end up in January 2019—the clock ticking and people claiming the Government have used excessive powers. That would contribute to chaos rather than certainty, so the issue needs to be addressed.

The second issue, which has been highlighted by some of the other Members who have spoken, is whether the Government can sensibly identify areas of particular concern to the House, such as children's rights, environmental law or equality rights, that can be safely cordoned off—or, in the case of children's rights, specifically inserted—to reassure the House that these powers will not be used for a purpose other than that which was intended. That seems to me to be the challenge.

For those reasons, I am going to listen very carefully. I want to avoid putting any of my numerous amendments to the vote, but that will depend first on the answer that I receive from the Dispatch Box this afternoon and secondly on whether the answer is sufficiently clear and shows a willingness by the Government overall—we have debated this on previous days—to go away and consider the matter properly, and then come back with a sensible proposal on Report. I should be happy to wait until then, because that is exactly what the process of legislation is about—waiting to see what the Government come up with—but I put them on notice that if what they come up with is inadequate, the debate on Report will allow us to re-table amendments, or table them in a slightly different form. If necessary, we will vote on them, and I will vote to ensure that the powers are not as they currently appear. That is the challenge to the Government, and I expect a response. Provided that I receive that response, I will sit on my numerous amendments this afternoon.

Let me say one more thing, about a matter that has not been much touched on. My new clause 82 deals with tertiary powers. This is a little bit technical, but I do not like tertiary powers. I do not like them one little bit. They are, of course, powers that ultimately do not come to this place at all. I want to find out this afternoon what tertiary powers are actually for, and I want the Government to give some examples to justify their appearance in the Bill. I confess that I found it slightly difficult to see why they had crept in. One or two people have suggested some possible reasons, but I should like to hear rather more this afternoon; otherwise, again, I put the Government on notice that I shall return to this matter on Report. I do not think that the world would come to an end if they were to disappear from the Bill, although my hon. Friend the Minister may persuade me otherwise. As a result of the Government's approach, we have already made great progress on triage. I am grateful to them for that, because it is exactly how the Bill should be dealt with. However, I want to see some progress on constraining the powers and making them less extensive, because I think that they are unnecessarily broad.

Mr Geoffrey Cox (Torridge and West Devon) (Con): As ever, I am considering what my right hon. and learned Friend is saying with enormous care. Much of it has enormous force and makes a great deal of sense. However, if his objective in amendment 2, which inserts proportionality and reasonable tests, is to avoid resort to the courts, I should point out that the insertion of a clause of that kind is more likely to encourage resort to the courts than to deter it.

Mr Grieve: My hon. and learned Friend is right. Of course it is true that, although such measures have a history of being introduced into legislation, amendment 2 raises the risk of legal challenge, because ultimately these issues can usually only be resolved in courts.

Mr Cox: More often.

Mr Grieve: Such measures may act as a constraint, but once Ministers have taken the plunge, there will not be much that we can do. That is precisely why there is a menu of options. I personally would prefer Ministers to do a proper exercise of asking themselves whether they really need individual powers in their current extensive form. That would be the easier course, and it would provide much greater certainty and avoid the lawyers, although it might do my hon. and learned Friend out of a brief fee or two, but lawyers on the whole ought not to benefit from defective legislation in so far as possible. I am grateful to the House for listening, and I look forward to hearing the response of my hon. Friend the Minister.

4 pm

Mary Creagh: It is a pleasure to follow the right hon. and learned Member for Beaconsfield (Mr Grieve). If he is concerned about tertiary legislation, I invite him to co-sign my amendment 291, which will be taken on day 8 of our consideration of this Bill, and which would require all tertiary legislation made under powers under these regulations to be subject to parliamentary control. That would go some way towards addressing some of the concerns he and I have about tertiary legislation.

I rise to speak to new clause 62 and amendment 138, tabled in my name. This Bill poses a severe risk that environmental legislation on exit day becomes zombie legislation, no longer updated or enforced, and vulnerable to being watered down or dropped entirely. Amendment 138 seeks to prevent environmental protections from being watered down, and new clause 62 would require the Government to come up with a solution to the governance gap.

That is important because 80% of the UK's environmental protections come from EU law. This Bill will have to deal with swathes of environmental law, and we do not want it tampered or fiddled about with in any way if we leave. Those laws have brought us a very long way since the 1970s when we were seen as the dirty man of Europe, but they are neither self-executing nor self-policing. They set air quality targets, climate change targets and water quality standards, and the rules and regulations affect almost every aspect of our waste management industry. It was interesting that the Prime Minister said yesterday that waste, water, food and agriculture would all be subject to continued regulatory alignment; we wait to see what that means in practice. Those laws mean we bathe on cleaner beaches, drive more fuel-efficient cars and can hold the Government to account on air pollution.

We are part of a global gold standard in chemicals regulation, and the chemicals and pharmaceuticals industry yesterday wrote to the Environment Secretary stating in terms that it wishes to stay in the registration, evaluation and authorisation of chemicals regulation. On a previous day's consideration of this Bill, the Minister of State, Ministry of Justice, told me in response to my concerns on REACH that it is directly applicable in UK law, but he fundamentally misunderstands what REACH does. It creates a body—the European Chemicals Agency—which regulates, evaluates, authorises and enforces that law. We do not have such a body in UK law, so although that directive may be directly applicable and be valid in UK law, there is no body to carry out its functions. As we go through this Bill we are going to find that that is the case. There may be a body that the Minister thinks he can dump those functions on through a duplication of legislation, but that is not a perfect or elegant solution. Today, we are a world leader in environmental standards, and, crucially, we are able to hold this Government to account. That certainly focuses Ministers' minds when there is the threat of infringement or infraction proceedings.

[Mary Creagh]

Leaving the EU means we lose those governance, enforcement and accountability mechanisms, and new clause 62 requires the Government to ensure that environmental law is enforced after exit day. That is why my Committee called for a new environmental protection Act. The Government have said that that will not be necessary, so since they have refused to introduce such an Act, amendment 138 aims to preserve retained EU environmental law. Much of this environmental law will need technical corrections, and the unpicking of 40 years of legal ties to EU institutions and agencies is the biggest administrative and constitutional task that this country has faced since world war two.

Stephen Kinnock (Aberavon) (Lab): Is my hon. Friend aware of the fact that at least half of the approximately 42 EU agencies that exist offer no provision for the participation of third countries? Could she perhaps ask Members on the other Benches how the Government can possibly build the necessary capacity when we are unable to participate in those agencies?

Mary Creagh: My hon. Friend raises an excellent point, which has also been raised by the European Chemicals Agency. Those registrations, which will have cost our businesses £250 million, will fall on exit day. I know that that particular agency does allow third countries to participate, but when I tabled a parliamentary question to various Departments about the work they had done to prepare to duplicate the work of those regulatory agencies, I got a series of flannel-type replies that essentially said, "We don't know how much it is going to cost, we don't know what the system is going to be and we haven't really started the work." That is simply not good enough. Businesses and citizens deserve certainty. We are going to need between 800 and 1,000 statutory instruments before exit day to correct retained law. In a letter to the Environment, Food and Rural Affairs Committee in September, the Environment Secretary said that there were 850 pieces of legislation relating to his Department that would no longer work after exit day unless they were corrected. That is an absolutely huge body of law.

Clause 7, as we have heard, gives Ministers powers to make regulations that they believe are appropriate—again, I dispute what "appropriate" might be—to

"prevent, remedy or mitigate…any failure of EU retained law to operate effectively"—

again, how do we know what the full scope of this clause will cover? This is a huge amount of law—

"or…any other deficiency in retained EU law"

where this arises from exit. The Bill's explanatory notes contain a worrying and rather brazen example of what this means. They use the example of the UK having to obtain an opinion from the EU Commission, stating:

"In this instance the power to correct the law would allow the Government to amend UK domestic legislation to either replace the reference to the Commission with a UK body"—

should the Government decide to have one—

"or remove this requirement completely."

Once we start to see the removal of reporting and enforcement requirements, we get to the heart of the Bill, which is that Brexit is a deregulators' charter. This is about taking rights away and about ensuring that environmental and social rights are lost to our citizens. I do not want to see Ministers making those sweeping changes with no scrutiny in this place.

In part 1 of schedule 7, paragraph 3(2) waives the affirmative procedure for regulations where the Minister is of the opinion that

"by reason of urgency, it is necessary to make the regulations without a draft being so laid and approved."

That basically says that the Government will not consult this House if the matter is urgent. They have said that they will accept the amendments tabled by the Procedure Committee Chair, the hon. Member for Broxbourne (Mr Walker), but those provisions could be waived if a Minister was of the opinion that the regulations were urgent. The Government want to pass 800 to 1,000 statutory instruments, 850 of which are in the environment sphere. Can anyone tell me which of those regulations will not be urgent, given that they need to be passed before exit day?

Mr Baker: May I reassure the hon. Lady that it is the made affirmative procedure that is available for urgent instruments, so the instrument would have to be laid before both Houses.

Mary Creagh: But that would still be the negative procedure—

Mr Baker: No, it is set out in the schedule. It is the made affirmative procedure, which means that once the instrument has been made, it must be laid for a resolution of both Houses.

Mary Creagh: I thank the Minister for that clarification.

What could possibly be watered down? The Environmental Audit Committee asked the Transport Secretary for a guarantee that air quality standards would not be watered down after Brexit, but he refused to give us that guarantee, saying that he found it

"hard to believe that any Minister is going to stand before this House and argue for a reduction in air quality standards."

He is right. No Minister will have to stand before this House and argue for that, because the Bill does away with that requirement. We saw the Secretary of State for Exiting the European Union's mask slip once before during his statement to this House on the White Paper, when he said:

"This is about reversing—well, not reversing but amending—and dealing with 40 years' accumulated policy and law."—[*Official Report*, 2 February 2017; Vol. 620, c. 1220.]

That was a Freudian slip that I return to time and again. We have also seen that from the Environment Secretary. Paeans have been heaped on his head, but in April, between his visiting Donald Trump in January and his rehabilitation to the Cabinet, he railed against the habitats directive, which he now somehow wants to protect from himself. He talked about homes in his constituency being governed by the habitats directive and how onerous it was for developers to have to offset their projects with green spaces. There is obviously more joy in heaven over one sinner who repents, but he was a deregulator before his damascene conversion. He is now deeply penitent, spending his day listening to the experts, and has since acknowledged that the environment needs to be protected from

"the unscrupulous, unprincipled, or careless".

I wonder which of his colleagues he had in mind and who may yet succeed him at DEFRA.

How might Ministers go about watering down EU standards? The 2008 classification, labelling and packaging regulation or CLP regulation—CLP means something quite different in Labour terminology—is an example of direct EU legislation under clause 3, which will become retained EU law under clause 6. The CLP regulation aligns the EU's system of classifying, labelling and packaging chemical substances. It enables chemical products to be traded in the European single market while protecting workers, consumers and the environment. It is why drain cleaners—the sulphuric acid that has been used in the terrible acid attacks—and paint strippers bear the red diamond hazard signs, with which we are all familiar. The regulation will need to be corrected after exit day, but the corrections proposed in the Government's delegated powers memorandum show how the CLP regulation would be dramatically watered down.

The draft statutory instrument proposes to omit article 46 of the CLP regulation. Article 46 obliges the Government to enforce the safety standards in the regulation and to report on how well those standards are being enforced. In that draft SI, the Government say that because the Commission does not exist, they do not need to report to the Commission, and because they do not need to report, they do not need to enforce. This is a granular and detailed amendment, but that is the sort of thing that the proposed sifting committee will have to consider with an electron microscope to get to the heart of every single deficiency, some of which—with the best will in the world—will not appear until there is a legal challenge. We do not want the labelling and packaging of dangerous chemicals not to be enforced and not reported to any body. Some hon. Members may not be as sceptical as I am about Ministers' intentions, but none of us can predict the future. We have had three Environment Secretaries in as many years.

Amendment 138 would protect retained EU environmental law, requiring Ministers to certify that they are satisfied that regulations made under clause 7 will not remove or reduce any environmental protection provided by retained EU law. That certification—similar to that created by the Human Rights Act—would be justiciable, meaning that it can be challenged in a court of law. An individual or group could apply for a judicial review if they felt that regulations made under clause 7 had removed or reduced environmental protection. That would not delay leaving the EU, but it would provide a vital check on the powers in clause 7, and it protects the protections.

4.15 pm

The hon. Member for Broxbourne and I discussed yesterday how the new committee could do what I call the magic ping—alerting Select Committee Chairs to particular instances. That is one way of doing it. Alerting other Select Committee Chairs is another way, but of course that excludes Members of Parliament who may have an interest in a particular matter—a constituency, historical or professional interest—and we need to think about how those alerts go out and how they work across the House so that people who are interested and have something material to contribute do not suddenly wake up and find that a measure was passed two or three weeks ago and no one really understood what it meant. It is a modest change, and I look forward to working with the hon. Gentleman to make sure that that happens.

I want to look at how EU institutions monitor, enforce and update environmental standards. Member states are usually required to provide the Commission with reports. The Commission is a kind of environmental watchdog. It has bitten; it has used its teeth. In February this year it issued a final written warning to the UK to comply with the EU air quality directive. The UK's response—the latest air quality plan—was published in April, and we await the Commission's verdict on it.

The process ends with compliance or referral to the European Court of Justice, which can issue fines. We have heard how crucial that mechanism has been in securing environmental improvements. The threat of fines has certainly enabled DEFRA to punch above its weight in arguments with the Treasury. My Committee has heard how the Treasury has often ridden roughshod over DEFRA. In the autumn statement 2015 it cancelled the £1 billion carbon capture and storage competition. It scrapped the zero carbon standard for new homes. It failed to set a tax regime that would drive up recycling rates. However, if an environmental policy is linked to an EU obligation, with the threat of fines, that policy can often get through and escape the dead hand of the Treasury. After exit day this constitutional backstop for the environment will fall, and there is nothing in the Bill to replace it. Environmental law will be vulnerable to being watered down or quietly dropped at the stroke of a Minister's pen.

How will the Government introduce new policies to tackle air pollution? How will the chemicals sector be regulated after exit day? It is not good enough to cross our fingers and say, as the Secretary of State said to me three short months ago, that we are going to regulate it "better." We need a new environmental protection Act, which my Committee called for nearly a year ago, to monitor, enforce and update environmental standards. Conservative Members will say that since his return to the Cabinet the Environment Secretary has told us how that will be done. On 1 November he told my Committee that we would have no governance gap because there would be this new "Commission-like body". During that Committee session that body metamorphosed into four bodies, one for each of the devolved nations. How on earth is that going to give regulatory certainty to businesses working across borders? How will this new body ensure compliance? Will it be able to fine Governments? Will it be independent of Government? Will it inherit the reporting obligations of the EU Commission? Who will it be accountable to? Who will determine its budget? Will it be underpinned by statute? Will it be ready before exit day? Since 1 November those questions have not been answered, although we have seen a speedy U-turn on animal sentience. I would like to see a very speedy U-turn, before Report, giving clarity on what the new environmental body will do and how it will be funded.

It would require significant constitutional innovation to create a UK domestic agency that was a clone of the EU Commission to perform these tasks. It is a necessary but not sufficient step, because it ignores the policy-making role that the European Commission and Parliament play in this vital area. The Environment Agency and the

Health and Safety Executive, which have been posited as regulators in this area, cannot be the regulator, the police officer, the judge and the policy maker in this area. New clause 62 would therefore require this new agency to report to Parliament on progress on meeting targets in retained EU environmental law, and to publish reports on whether the Government are meeting or missing those targets, and make recommendations for extra action. Obviously, we are limited in what can be put in a new clause, and I want the Government to go much further in developing their ideas on this.

In conclusion, we have worked together with our European partners for 40 years to develop world-leading environmental standards, and we must not reverse that progress. We cannot simply cut and paste them, and we must make sure that we do not have zombie legislation. Those laws need to be kept alive and given power and teeth by being backed up with sanctions. We did not vote to transfer power from Parliament to Ministers, and I urge the Government to accept my amendment.

Several hon. Members *rose—*

The Second Deputy Chairman of Ways and Means (Dame Rosie Winterton): Order. I just ask Members to bear in mind that a lot of colleagues wish to speak and the Minister will be coming in at some point.

Mr Charles Walker (Broxbourne) (Con): I certainly will bear that in mind, Dame Rosie, and thank you for calling me.

I rise to speak to my amendments 392 to 398. I am not going to read out each one for the benefit of colleagues, because all colleagues can read. The amendments have been covered by various colleagues, from both sides of the House, so I shall stick to discussing the broad principles, but I will of course be happy to answer any questions or criticisms that colleagues may have.

First, may I thank the Procedure Committee for its hard work in producing the report published on 6 November? It is worth pointing out to colleagues how well Select Committees perform in this place. We are obsessed—or all too often we give the impression that we are obsessed—with partisan politics. Of course when people tune in on Wednesday at midday, that is what they see in this place. Our report was agreed unanimously by 15 Members of Parliament, six of whom are Government Members and nine of whom are Opposition Members. It is important to get that on the record. Also important is the fact that we did not let the pursuit of perfection get in the way of sensible compromise.

I can understand that a number of colleagues here today are somewhat disappointed, or remain dissatisfied, with what the Government have brought forward, but, as we have heard from Opposition Front Benchers, Opposition Back Benchers, Government Front Benchers and Government Back Benchers, including my right hon. and learned Friend the Member for Beaconsfield (Mr Grieve), there is broad acceptance that these amendments are a very positive step forward. As Chair of the Committee, I of course endorse that view.

Let us not underestimate the powers that the sifting committee will have. A Select Committee is like water: it gets in everywhere and all too often into places where it is not welcome. So I am certain that with a good and strong chairman who is respected by both sides of the House, a committee comprising experts—committed parliamentarians—will do the right thing by this place.

Chris Bryant: The thing is that the hon. Gentleman's Committee is chaired by a man who is respected by both sides of the House and much loved by many people in all parts of this House, yet his Committee has regularly produced reports that have been completely and utterly ignored by the Government. That is the problem: he is still asking us to trust the Government in the end.

Mr Walker: I count the hon. Gentleman as a great friend, and say to him that yes, all too often I have come to this place in a state of high dudgeon, deeply depressed by the performance of my Government's Front-Bench team, but on this occasion I assure him that the Government have accepted amendments and tabled draft Standing Orders, which are available today for all colleagues to read, so progress has been made. I also remind the hon. Gentleman that the report had the support of every member of the Procedure Committee.

The hon. Member for Nottingham East (Mr Leslie) expressed concern about what teeth the sifting committee would have. It is absolutely right that, as he identified, the committee would not be able to insist that the Government change a negative statutory instrument into an affirmative one, because if it could, the committee could just turn around and say, "Right, we want every single negative SI to be affirmative, and that's the end of it. Be on your way and we'll see you in a couple of years' time." I do not think that would be sensible.

The political cost to my Front-Bench colleagues of going against a sifting committee recommendation would be significant. The committee will have to give a reason why it is in disagreement, the Minister will be summoned to explain his or her Department's position, and it will be flagged up on the Order Paper if a particular SI has not been agreed between the sifting committee and the Government. That will result in a significant political cost, because what we do most effectively of all in this place is to generate political cost. When a Government fail, or even, indeed, when an Opposition fail, there is a cost to their credibility and reputation. It is important to highlight that.

Dr Sarah Wollaston (Totnes) (Con): I congratulate my hon. Friend and the Procedure Committee, and I really welcome its proposals. Does he think that this idea should be extended to all statutory instruments?

Mr Walker: My hon. Friend tempts me so much. It is not my intention today to spook the Government, but I think the sifting committee will probably be so successful that the Government and the House will want to embrace it for all negative SIs going forward.

I listened to the concerns expressed by the hon. Member for Edinburgh East (Tommy Sheppard) about the performance of Delegated Legislation Committees. I share those concerns, but a Minister turns up at those Committees, and it is often we Members of Parliament who fail to hold that Minister to account. Indeed, the Under-Secretary of State for Exiting the European Union, my hon. Friend the Member for Wycombe (Mr Baker) is on the Front Bench, and I remember

discussing this issue with him in the 1922 committee when he was but a humble foot soldier, like me. I remember a blog he posted early in his tenure in this place, in 2010, in which he expressed dismay at the lackadaisical approach of scrutiny in Delegated Legislation Committees. Again, that is not the Government's fault; it is our fault as Members of Parliament. What is so refreshing about these eight days of scrutiny of the Bill on the Floor of the House is that right hon. and hon. Members of Parliament from both sides of the House and from all sides of the argument are turning up and holding the Government to account. It is our duty to do that in every Committee of the House.

I said I would be brief, and I think I have been. I hope I have covered most of the relevant concerns, but there is one further concern to which I would like the Government to respond. Several speakers have rightly identified that the Bill will result in up to 800 or 1,000 SIs—it could be more; it could be a little less. The Government have reassured us that the Cabinet's Parliamentary Business and Legislation Committee will look at the workload to manage an effective flow without peaks and troughs. That is a useful reassurance, but the Government need to go further. There needs to be a system, which was identified by the hon. Member for Wakefield (Mary Creagh), where the House can have sight and pre-warning of what is coming. That might be difficult to achieve, but I hear what she is saying and think that it is a sensible suggestion. On that note, and accepting that all colleagues here have read the Select Committee report and the Government response, and are adequately familiar with the amendments, I shall sit down and not detain this wonderful place further.

4.30 pm

Tom Brake: It is a pleasure to follow the hon. Member for Broxbourne (Mr Walker). He has set out a system, which will be tested the first time the Government refuse a recommendation from the Committee. Then we will see whether the system works in practice.

There are many, many amendments, cross-party in nature, which I will be supporting if they are pressed to a vote today, including amendments from the right hon. and learned Member for Beaconsfield (Mr Grieve), the hon. Member for Nottingham East (Mr Leslie), who opened this debate, the hon. Member for East Worthing and Shoreham (Tim Loughton), and many others whom I do not have time to mention. That underlines the cross-party nature of this whole matter.

There are a number of amendments in my name—a disparate group, ranging from EU citizens and the single market to EU agencies and their UK successors, and equality and human rights legislation. I shall focus principally on the single market and the equality and human rights legislation.

Amendment 124 is on the single market. Members here will know that I am very much after red meat when it comes to the single market: I think that the UK should stay in the single market permanently. However, in case Members here are reluctant to support the amendment, I wish to point out that that is not what it actually brings about. It is quite specific in ensuring that the Government cannot use regulation-making powers in a way that would lead the UK to diverge from the single market. On that basis, I hope that Members on both sides of the House will not see it as seeking to lock us into the single market permanently, which of course is what I would like to do; it is slightly less wide-ranging than that.

Angela Smith: May I take it from what the right hon. Gentleman has said that he is arguing that we should indeed be keeping all options on the table, including the single market, and that nothing is agreed until everything is agreed?

Tom Brake: Absolutely. Many Members on both sides of the House know that one of the most damaging things that the Government did from the outset was to rule out membership of the single market and the customs union—particularly the customs union. We can see what problems that has caused in relation to Ireland and Northern Ireland. Even now, that can has simply been kicked down the road. The issue has not been resolved in any shape or form.

It is probably fair to say that people, including Members in this House, now have a much clearer understanding of exactly what the single market is. I know that there are Members, particularly on the Government Benches, who claim that, during the course of the EU referendum campaign, people had a very clear idea of what the single market was and what the customs union was; they did not want to be in them. Frankly, I do not believe that to be true. It may be that some of those Members had in their constituencies a trade specialist or an economist who knew precisely what the single market and the customs union were, but I am afraid that, broadly speaking, there was not a great degree of awareness of what they constituted—I am talking about the fact that the single market ensures that UK companies can trade with the other 27 EU countries without any restrictions and without facing arbitrary barriers. That is why it is essential that people support this amendment.

I hope that, in the longer term, the Government will see sense and realise that it is in the UK's economic interests to stay in the single market and the customs union. I know that my amendment has cross-party support, but I hope that I will also get support from the Labour Front-Bench team, because that will reinforce the message that I am hearing from the Labour party that it is committed to the single market and customs union for the transition period. What I need to hear is that, beyond the transition period, there is also a commitment to the single market and the customs union. The Labour Front-Bench team say they are worried about jobs, and such a commitment is the best way of securing jobs in the United Kingdom. I hope I will get support for that; I will be pressing amendment 124 to a vote.

Mr Ben Bradshaw (Exeter) (Lab): I am sure that the right hon. Gentleman will get a lot of support from the Labour Benches if his amendment is pressed to a vote. To be fair to our Front Benchers, they have made it clear that they think the option of staying in the single market and the customs union should remain on the table after the transition. The right hon. Gentleman was not quite fair in his description of our Front-Bench policy as I understand it.

Tom Brake: All right—the right hon. Gentleman is probably closer to his Front Bench's policy than I am, certainly in respect of the understanding of it, if not

[Tom Brake]

necessarily the direct input. I hope that Labour may be able to take things one step further: to make staying in the single market and the customs union not an option but the party's actual policy. As I said in an earlier intervention, staying in the single market was in the 2015 Conservative manifesto, which also mentioned the benefits of doing so.

I turn to amendments 363 and 364, and a number of other related amendments, which are on equality and human rights law. The amendments are needed to prevent changes to fundamental rights being made without full parliamentary scrutiny. The Bill permits Ministers to amend laws, including Acts of Parliament, by delegated legislation. The Government have said that the powers will not be used for significant policy changes and that current protections for equality rights and workers' rights will be maintained. I welcome those commitments, but in order to protect fundamental rights, it is essential that they are guaranteed by reflecting them in the extent of the delegated powers in the Bill.

Many other Members have quoted the House of Lords Delegated Powers and Regulatory Reform Committee, so I will not. That Committee has expressed strong concerns about the Government's approach, as has the House of Lords Constitution Committee, which it might be worth quoting. It believes:

"The executive powers conferred by the Bill are unprecedented and extraordinary and raise fundamental constitutional questions about the separation of powers between Parliament and Government."

That point has been repeated by many Members during these days of debate.

I welcome the fact that the Bill already prevents the use of delegated powers to amend the Human Rights Act 1998, which, of course, recognises the importance of the rights it protects. However, if the Bill does that for the Human Rights Act, I do not quite understand why it does not protect the rights in other Acts. The Equality Act 2006 and the Equality Act 2010 must also be protected, as must the Employment Rights Act 1996 and secondary legislation such as the Working Time Regulations 1998, which were mentioned in an earlier contribution. My amendments would protect the rights in such legislation. I am unlikely to press them to a vote, but the Labour party's amendments 25 to 27 are similar. In fact, they could be improved by providing equivalent protection to the Equality Act 2006.

In the first day in Committee, the Government made a commitment to table amendment 391, which they have done. I welcome that, but I would like the Minister to clarify one point. I think it was the Minister of State, Ministry of Justice, the hon. Member for Esher and Walton (Dominic Raab), who said that the Government would ensure that they would address

"the presentation of any Brexit-related primary or secondary legislation"—[*Official Report*, 21 November 2017; Vol. 631, c. 904.]

But as far as I read it, the amendment refers only to secondary legislation. I am not sure whether that means that there will be further amendments, that the Minister misspoke originally or that we are to expect more. Perhaps the Minister will pick up on that point when he responds.

I have a couple more minutes, in which I will refer briefly to EU citizens' rights. Now, I hope that people are not under the impression that, in moving on to phase 2 of the negotiations, EU citizens in the UK or UK citizens in the EU are happy with where we are at; clearly, they are not. Some 3 million EU citizens in the UK still have significant concerns around the time limits being placed on certain protections. They are also concerned about the all too frequent errors that occur in the Home Office—something with which we are all too familiar—which they anticipate leading to a large number of problems with the proposed changes regarding their status. Nor are UK citizens in the EU any happier with the outcome, and they are as critical of the EU as they are of the UK Government in terms of the speed with which they have moved on. However, as has been said in the debate, given that nothing is agreed until everything has been agreed, those issues can still be pursued.

The final point I want to make relates to amendment 121. If I had had time, I would have read out the list of 21 organisations, although by the sounds of it, given the earlier intervention on this issue, I have missed about 19 organisations, because there are more than 40. However, I would have liked to ask Members present, in a moment of truth and honesty, whether any of them had anticipated that all the organisations on the list would be affected by our leaving the European Union—if, indeed, we do leave, because nothing is certain on that front. I suspect that not a single Member here would have claimed, if they had answered honestly, that they knew of each and every one of those organisations.

We are going to have to go through a costly process of creating our own organisations, with heavy costs attached to that. The purpose of the amendment is simply to ensure that the Government are not able to create these new agencies, or to give substantial new powers to existing agencies, by way of delegated legislation, because that is the sort of thing that needs to be done through Parliament and through primary legislation.

Thank you, Dame Rosie. I think I have kept within your time limit. I would just like to reinforce the point that I will be pressing amendment 124 to a vote, and I hope I will receive support from both sides of the House for it.

Anna Soubry: It is a pleasure to follow the right hon. Member for Carshalton and Wallington (Tom Brake), and I will indeed support his amendment 124 when he presses it to a vote. It is, effectively, about the benefits of the single market and making sure that, as much as we can, we retain our membership of it, especially after we have left the European Union.

I rise to support all the amendments I have signed, which are mainly those that have been drafted by my right hon. and learned Friend the Member for Beaconsfield (Mr Grieve). I also rise to support the amendments tabled by my hon. Friend the Member for Broxbourne (Mr Walker), and I congratulate him and his Committee on coming up with their proposals. I also thank him for reassuring some of us who were concerned that this creature that was created, quite properly, to address the concerns that many right hon. and hon. Members identified on Second Reading might not have any teeth. However, he explained that the effect of sanctioning a Minister, as he quite properly identified it, has political consequences that do the job. On that basis, I am content with the proposed new committee. Obviously, I have concerns, but I am delighted that the Government have accepted the relevant amendments.

If it is pushed to a vote, I will also vote for amendment 49. I thought that the speech by the right hon. Member for Normanton, Pontefract and Castleford (Yvette Cooper) was admirable. In fact, her amendment is hardly revolutionary; it is an entirely proper amendment to this important piece of legislation and this clause. It uses the word "necessary", and I think that that was the word used in the original White Paper. I will therefore be supporting the amendment.

I pay tribute to my hon. Friend the Member for East Worthing and Shoreham (Tim Loughton) for his probing amendment. If I had got round to it—I have signed so many amendments—I would have signed his, for what that is worth. In looking at his speech in particular, and at so many of the other speeches we have heard today, it is really important to understand what people like and do not like about this place and, indeed, about politicians. The public actually like it when we agree across parties; people mistake that. I am not saying that the public do not enjoy some of the spectacle of Prime Minister's questions—there is nothing wrong with a good hearty debate and row on points that will forever divide us; they identify our political beliefs and parties. However, on those occasions when we agree, the British public absolutely like it.

4.45 pm

The big mistake that the Government have made—I really hope that they will now look deeply into this—is to assume that the normal rules apply in relation to this Bill and all matters to do with Brexit. This is a unique Bill and this is a unique situation. Never before have we had a referendum that has so divided the British people. These are things that we have to understand and say. It was a very close result. Only 52% of those who voted voted for us to leave the European Union, and 48% of those who voted voted for us to remain. If that result had been reversed, I think we all know what would have happened. The people in the 48% would not have packed up their toys and said, "Fair do's, everybody, I'm off now. I won't carry on banging on about Europe because the matter has been settled and I accept the result." We can be absolutely sure that with that difference of 48:52, they would have pursued a lifetime's habit and kept banging on because of the narrowness of the vote.

Jess Phillips (Birmingham, Yardley) (Lab): May I introduce you to Bill Cash?

Anna Soubry: I did not hear what the hon. Lady said, but I am sure that *Hansard* did, so I will move swiftly on.

I say to those on the Treasury Bench, and anybody else who might be listening to this speech, that the profound difference between those people and people like me—right hon. and hon. Members on both sides of the House, right across these green Benches—is that we have accepted the result, although it may break our hearts to do so. That is quite a dramatic statement, but many people are genuinely upset that we are going to leave the European Union. Nevertheless, they have accepted the result even though it goes against everything that they have ever believed in. They have not only accepted the result, but then voted to trigger article 50. One of the things that saddens me as much as it saddens me that we are going leave the European Union—probably more so—is the inability of the people who supported and voted for the leave campaign to understand and respect those of us who were remainers, who voted to trigger article 50, and now genuinely say that we are here to help deliver this result to get the best deal that we can as a country, putting our country before our own views and before our party political allegiances.

It may be that some leavers, especially some people in Government or formerly in Government, cannot accept that because unfortunately—I am going to have to say this—they judge people like me by their own standards. For people to say that by tabling an amendment one is somehow trying to thwart or stop Brexit is, frankly, gravely offensive. That level of insult—because it is an insult—has got to stop. People have to accept that there is a genuine desire certainly among people on the Government Benches, and on the Opposition Benches, to try to come together to heal the divide and get the best deal for our country.

Angela Smith: Does the right hon. Lady accept, too, that a significant proportion of the voters who voted leave would agree with her that the hijacking of the leave argument by a small minority is damaging the debate?

Anna Soubry: I very much agree with the hon. Lady. It is not right and it is not fair. It also, as she rightly identified, does not reflect leave voters. We have got ourselves into a ludicrous situation whereby a very small number of people in this place, in this Government, and indeed in the country at large, suddenly seem to be running the show. That is not right, because they do not reflect leave voters, who, overwhelmingly, are pragmatic, sensible people who unite with the overwhelming majority of people who voted remain and who, frankly, want us all to get together, move on, get the best deal, and get on with Brexit.

That, I think, is where the British people are. I think they are also uneasy, worried and rather queasy because of all the things that we have spoken about in this place. They now realise, as I think my hon. Friend the Member for East Worthing and Shoreham said, that it is very difficult, this Brexit. It is indeed difficult to deliver it, and many people thought from the rhetoric of the leave campaign that it would be oh, so easy. Indeed, others—such as the Secretary of State, who is beautifully arriving in the Chamber—believed that a trade deal would be done in but a day and a half.

I am being pragmatic, so I am not going to make any more such points; I am going to try to move the discussion on. But I urge all members of Her Majesty's Government, especially those in the most important positions, to please reach out to the remainers—now often called former remainers—who made up the 48%. I urge those Government members not to tar us with the paintbrush that they may have used for many years, but to try to build a consensus. That means that the Government need to give a little bit more than they have given so far.

The reason why I support the single market, the customs union and the positive benefits of immigration is not that I am some treacherous mutineer. My hon. Friend the Member for East Worthing and Shoreham is hardly some sort of Brexit mutineer, but he is an excellent example of someone who quite properly tables a probing new clause because he is doing his job as a Member of Parliament. That is why amendments have been tabled

[Anna Soubry]

by all manner of people, and they have been supported in a cross-party manner to a degree that apparently has not been seen for a very long time. That is commendable.

I am no rebel, because like many of my former Back-Bench colleagues who now sit on the Front Bench, I made it very clear to the good people of Broxtowe that I was standing as a Conservative but I did not endorse my party's manifesto in relation to the single market and the customs union. Sitting on the Front Bench today are hon. Members who, in the past, stood quite properly in their constituencies as Conservatives while making it very clear that they did not support our party's policy on the European Union and would campaign for us to withdraw. I make no criticism of that. I say, "Thank goodness," because that is what we want in a good, healthy democracy. But it is ironic, is it not, that the Secretary of State has rebelled, I think, some 30 times on European matters?

The Secretary of State for Exiting the European Union (Mr David Davis): More.

Anna Soubry: He says, "More." I do not criticise him for doing so. I bet he has never been called a Brexit mutineer—well, he would not have been called a Brexit mutineer, but I am as sure as anything that he has not been abused in the same way as other people who have had the temerity to table an amendment and see it through. The Under-Secretary of State for Exiting the European Union, my hon. Friend the Member for Wycombe (Mr Baker) rebelled, I think, some 30 times between 2010 and 2015. He and the Secretary of State will understand how important it is for us, having made our case clear to our electorate, to be true to the principles on which we stood and got elected. When we come here, if we do nothing else, we must surely uphold those principles—our mandate—by tabling amendments and voting for them.

If the Government are genuine about getting a good deal and healing the great divide—I very much hope that Ministers understand the damage that is still being caused to our country and the importance of healing the divide—they must reach out tomorrow, if not today, and do the right thing so that we get the right result. That will enable us to build on the consensus that broke out on Friday and move forward with delivering Brexit to get the best deal for everybody in our country.

Jess Phillips: I associate myself with the comments of the right hon. Member for Broxtowe (Anna Soubry). I agree entirely with her on this, as well as on a great many other things. I take the hon. Member for Stone (Sir William Cash) as my inspiration: if I cannot get what I want, I will just wait 40 years—saying the same thing—and it may come around again.

I will speak to amendment 385 and new clause 77, which are in my names and those of right hon. and hon. Friends, as well as right hon. and hon. Members from other parties. In the White Paper published earlier this year, the Government committed to continuing to work with the EU to preserve European security, to fight terrorism and to uphold justice across Europe, yet no mention at all was made of plans to continue the work, post-Brexit, with their European partners to protect women and girls fleeing violence. I need not really point to the lack of a certain sort of Member of Parliament—those with a certain chromosome—in the Brexit team or among those currently on the Treasury Bench as to why that was the case.

This omission is stunning given the current state of affairs in the UK. An estimated 1.3 million women in England and Wales experienced domestic abuse last year alone, while 4.3 million women will have experienced domestic abuse at some point since the age of 16. In addition, about one in five women will experience stalking or sexual assault at some point in their lifetime. Despite that desperately worrying state of affairs, the Government have so far failed to guarantee that such survivors of violence will enjoy the same legal protections post-Brexit as they do now.

Amendment 385 would at least retain one aspect of this protection. In February 2016, history was made in the Hammersmith specialist domestic abuse court, when the first European protection order was issued in England and Wales. This enabled the survivor to move to Sweden, enjoying protection in both the UK and Sweden. In the same year, another survivor was issued an EPO, allowing her to move to Slovakia safely. The UK has also recognised a number of EPOs issued by other EU member states in 2015 and 2016, meaning that these survivors were protected on entry to the UK. According to data provided by the European parliamentary research service, Britain makes disproportionate use of the framework, accounting for almost half of all orders granted in 2015 and 2016.

Mary Creagh: Does my hon. Friend think that the fact that we are disproportionately represented in that way reflects the UK's status as both a transit point and a destination for people trafficking? It would be abhorrent if the process of leaving the EU afforded less protection to such survivors.

Jess Phillips: Absolutely. I cannot give with any real certainty the exact reason why Britain uses the orders more than anywhere else, except for the fact that—I can definitely say this—our human trafficking rates are much higher compared with other European countries. The issue that worries me is that British Governments of many colours over many years have prioritised domestic violence services and protection orders in relation to human trafficking, and it would be a real stain on what is not a bad reputation for this Government—certainly on human trafficking—if we undid some of the protections that we rely on very heavily in the realm of human trafficking.

While the number of EPOs granted since their inception is still quite small, because the framework is very young—let us say that, in its infancy, it is the hon. Member for Birmingham, Yardley compared with the hon. Member for Stone—there is no telling how the uptake may increase in the future. We must certainly not deprive survivors making use of the orders of what they have been guaranteed so far, otherwise they will continue to be vulnerable and to be abused. Amendment 385 would ensure that, at the very least, UK courts continued to recognise EPOs issued by EU member states.

There are a great many other ways in which the UK co-operates with the EU on issues such as human trafficking, female genital mutilation and forced marriage. Such issues are prevalent in many parts of the country.

For example, in 2010, up to 900 schoolgirls across Birmingham were at risk of FGM. One in five children in Birmingham will have experienced or seen domestic violence before they reach adulthood, and at least 300 forced marriages take place in the west midlands every year.

5 pm

New clause 77 would ensure that the Government must report to Parliament on how much progress they have secured on all forms of co-operation with the EU to tackle violence against women and girls. It also speaks to the issue of funding for specialist services that support victims of violence and domestic abuse, and research into ending violence against women and girls. Post Brexit, UK-based services will no longer be eligible for several generous pots of money currently provided by the EU. For some organisations, such as the Iranian and Kurdish Women's Rights Organisation, that could mean a drop of up to 40% in their funding. Without a replacement, those organisations simply will not survive. My new clause would require the Government to make an assessment of just how much money UK organisations stand to lose post Brexit and how they are planning to replace it.

Given that amendment 385 and new clause 77 are endorsed not only by 21 Labour MPs, but by Members from almost every party, including the Conservatives, will the Minister please tell the Committee whether the Government will accept the principle of the amendments?

Mr Baker: I rise to speak to clause 7 and to amendment 391, tabled by my right hon. Friend the Secretary of State, which puts the Government's commitment to transparency into the Bill by requiring that the explanatory memorandums relating to each statutory instrument must include a number of specific statements. I would like to put it on the record that the Government will support the amendments tabled by my hon. Friend the Member for Broxbourne (Mr Walker) on behalf of the Procedure Committee—I will be happy to move them formally if the Chair does not call them for separate decisions. I see from my speaking notes that I am due to speak to approximately 134 amendments, so I apologise in advance if I deal with any of them superficially.

The Government do not propose delegated powers lightly; we do so only when we are confident that secondary legislation is the most appropriate way to address an issue. This House is right to guard jealously its rights and privileges. It is for the purpose of taking back control to this Parliament that millions of people voted to leave the European Union. We want to limit any powers that we are seeking, in so far as we can, while ensuring that they can meet the imperative of delivering a working statute book on exit day.

The power in clause 7 is essential to achieve continuity and stability in the law. The day the UK leaves the EU is drawing ever nearer. If we simply stop at converting and preserving retained EU law, the day after exit the UK statute book will contain many thousands of inaccuracies, holes and provisions that are not appropriate. That would have real-world consequences, leaving errors in the laws that businesses and individuals, sometimes unknowingly, rely on every day. I am grateful that the general premise that we need to take these steps has been accepted by Members on both sides of the Committee and on the Labour Front Bench.

The power in clause 7 is intrinsically limited. As I and other Ministers, including the Secretary of State, have said from this Dispatch Box, it is not a power for Ministers to change law simply because they did not like it before we left the EU. Clause 7(1) is clear that Ministers may only do what is

"appropriate to prevent, remedy or mitigate—

(a) any failure of retained EU law to operate effectively, or

(b) any other deficiency in retained EU law,

arising from the withdrawal of the United Kingdom from the EU."

If an issue does not arise from our withdrawal from the EU, Ministers may not amend the law using the powers in the clause.

Clause 7 is required to address failures to operate and deficiencies where the law does not operate effectively—for example, with reciprocal arrangements between the UK and the EU that have not formed part of any new agreement. Subsection (2) illustrates what these deficiencies might be. The clause is also subject to a number of direct limitations: it sunsets two years after exit day; and, as listed in subsection (6), it cannot impose or increase taxation, make retrospective provision, create certain types of criminal offence, implement the withdrawal agreement, amend the Human Rights Act 1998 or amend some sections of the Northern Ireland Act 1998.

Sir Oliver Letwin: Will the Minister clarify from the Dispatch Box that Opposition Members' assertions that it would be possible under the provisions for the Government to introduce secondary instruments that changed the safeguards in the Bill are misplaced because no court would allow that to happen under the provisions of appropriateness and deficiencies?

Mr Baker: I am very grateful to my right hon. Friend. I will come on to the specific differences between clause 7 and clause 9 in relation to the power to amend the Act, but I will say now that the Act itself cannot be amended under clause 7. I will come on to develop that point later.

Clause 7(5) lists some possible uses of the power. These could range from fairly mechanistic changes to correct inaccurate references, to more substantial changes to transfer important functions and services from EU institutions to UK equivalents. Both types of change are important to keep the law functioning appropriately. At this stage, we do not know for certain what corrections might need to be made. The negotiations continue and there is a large volume of law to correct in a short space of time.

Mr Leslie: Will the Minister give way?

Mr Baker: If I may, I will explain my approach to interventions, which I should have mentioned at the beginning of my speech. My speech has about 24 sections to address the 130 amendments that have been tabled. With respect to the hon. Gentleman, I would like to finish speaking on clause 7 stand part before I come on to his amendment. If he will allow me, I will give way to him then.

Secondary legislation made under this power is subject to entirely normal parliamentary procedures. I will come on to talk more about how we ensure sufficient scrutiny of secondary legislation when I speak to the amendments. The Government have always been clear that we will

[Mr Baker]

listen to the concerns of Parliament during the passage of the Bill and reflect on its concerns. We are committed to ensuring that Parliament has the right opportunities to scrutinise the Bill and its powers, so I am glad to have the opportunity to address concerns that have motivated many Members to table amendments to the scrutiny provisions in the Bill, alongside the debate on the powers themselves.

We should, however, all be in no doubt that without this power vital functions could not be carried out because they would not be provided for in our law. The UK could have obligations to the EU still existing in statute that would not reflect the reality of our new relationship. There would be confusing errors and gaps in our law. I say again that we do not take lightly the creation of delegated powers, but neither do we take lightly the imperative to deliver a stable, orderly exit that maximises certainty for the UK. Clause 7 is essential to achieving that task.

New clause 18, tabled by the hon. Member for Nottingham East (Mr Leslie), calls for an independent report into the constitutional implication of the powers in clause 7. There have already been a number of such reports and this is likely to continue. For example, the report he suggests sounds similar to the excellent and thoughtful report published recently by the Exiting the European Union Committee. A requirement for one more report after Royal Assent would, it seems to me, add little to the Bill and the definition of its powers. I reassure the House that the Government have listened to Members and to the Committees that have reported on the Bill.

I will turn a little later to amendments 392 to 398, tabled by my hon. Friend the Member for Broxbourne, but I am glad to report that the Government said yesterday that we would accept the amendments to enhance scrutiny of the powers through a sifting committee. Taken together with Government amendment 391 on the content of explanatory memorandums, we believe the amendments deliver more than the sum of their parts, so the House can be assured of the effective scrutiny of the powers in the Bill. I hope that reassures the hon. Member for Nottingham East, but I will give way if he still wishes to intervene.

Mr Leslie: The Minister mentioned clause 7(5) in relation to the regulatory powers to replace, modify or abolish public service functions. He will know that one of my amendments would delete the Government's ability to abolish functions by those orders. I wonder whether he could give us examples of public service functions or regulatory activities currently undertaken that the Government may wish to abolish.

Mr Baker: I will come back to that later, but I can tell the hon. Gentleman for a start that the translation functions of the European Union and various institutions will no longer be required.

I come now to amendment 1, from my right hon. and learned Friend the Member for Beaconsfield (Mr Grieve). It has support from all sides of the Committee including, I do not mind telling him, from me, in spirit. The Secretary of State has asked me to put on record that he, too, is sympathetic to the idea of narrowing the Ministers' discretion. My right hon. and learned Friend seeks to restrict the power of Ministers to make regulations to amend retained EU law to cases where the EU law is deficient only in the way set out in the Bill.

We have listened carefully to my right hon. and learned Friend, my hon. Friend the Member for Weston-super-Mare (John Penrose) and others, and the specific proposal in amendment 1 and amendment 56, tabled by the hon. Member for Nottingham East, is to convert the illustrative list of potential deficiencies in the law in clause 7(2) to an exhaustive list. As my right hon. and learned Friend knows, we do not think that it is possible to do that at this stage.

We know that there will be thousands of deficiencies across our statute book and it is impossible at this stage definitively to list all the different kinds of deficiencies that might arise on exit day. To attempt to do so risks requiring significant volumes of further primary legislation on issues that will not warrant taking up parliamentary time. The specifics of the deficiencies will inevitably vary between cases and it will therefore not be possible to provide a definition that accompanies them all, as amendments 264 and 265, tabled by the right hon. Member for Ross, Skye and Lochaber (Ian Blackford), also seek to do. An exhaustive list would risk omitting important deficiencies, so rendering the powers in clause 7 unable to rectify the statute book. To require primary legislation in such circumstances would undermine the purpose of the Bill and the usual justifications for secondary legislation, such as technical detail, readability and, crucially, the management of time.

We cannot risk undermining the laws on which businesses and individuals rely every day. Our goals are to exit the EU with certainty, continuity and control. However, I listened extremely carefully to the speech made by my right hon. and learned Friend the Member for Beaconsfield, my constituency neighbour, and to his appeal for us properly to consider this issue. I hope that he will not mind my saying that I think that we have already properly considered the issue, but we are perfectly willing to work with him and others to continue to reflect on this point with an eye on Report. We heard a very informative intervention on this point from my hon. and learned Friend the Member for Torridge and West Devon (Mr Cox). My right hon. and learned Friend will know that we are wrestling with the susceptibility of what we do to judicial review, which might undermine the certainty that we are trying to deliver.

Mr Grieve: I understand that, and I realise that I am setting a bit of a challenge. Of course, amendment 1 is only one way to deal with this. Interestingly, amendment 1 is the least justiciable route because of its clarity. Other amendments, such as amendment 2, do raise the issue of justiciability. One way or the other—I put this challenge to my hon. Friend—the Government will have to come back with something that tempers the starkness of these powers. I leave it to my hon. Friend's discretion, which is precisely why I have not tried to fetter him over this.

Mr Baker: I am grateful to my right hon. and learned Friend for that intervention.

Mr Cox: I wonder whether my hon. Friend might be attracted by this idea. At the moment, as drafted, the clause gives an inclusive, non-exhaustive list of examples,

but I wonder whether the principle of ejusdem generis might not assist us if it were slightly redrafted. One could draft it so that any extensions beyond the inclusive list had to be of the same kind or species as those that were listed. That might give some comfort, if they have to be of a similar character to those enumerated in the Bill.

Mr Baker: I am extremely grateful to my hon. and learned Friend, and I would be happy to meet him, our legal team and my right hon. and learned Friend the Member for Beaconsfield to take their suggestions on board. I am keen to address this, and I know that the Secretary of State is keen to do so, but I am not in a position today to have tabled or accepted an amendment. I ask them to bear with me and have further meetings with us and our legal teams to try to find a way through.

John Penrose (Weston-super-Mare) (Con): The Minister is being very generous and carefully considered in his responses. May I just check what he has said? Is he saying that he intends, if he can, to bring forward an amendment, perhaps on Report, to fix this, after these conversations have taken place, given the sympathy he says both he and the Secretary of State have for the amendments, or is he unable to give that promise to the Committee?

5.15 pm

Mr Baker: I will be very straightforward with my hon. Friend: we are keen to move on this issue, but, as several hon. and learned Friends have acknowledged, it is a tricky issue, so we will need to reflect further on how a movement might take place. The Attorney General, who is in his place, and the other Law Officers are well aware of this issue, but we are conscious of the imperative of being able to deal with deficiencies in the statute book, as well as of the advice of hon. and learned Friends.

Mr Grieve: I am sure that the Minister will deal with this on some of the other amendments, but the other limb of this is whether certain categories of retained EU law need special protection. All that, I suggest, needs to be looked at as a whole. I am convinced that if the Government do that, they will probably be able to come up with the right solution, and one that commands the confidence of the House.

Mr Baker: I will come to that a little later, but I hope that my right hon. and learned Friend will allow me to move forward.

Sir Edward Leigh (Gainsborough) (Con): Will my hon. Friend allow me to intervene?

Mr Baker: I will give way once, but then I will make some progress, because I am 15 minutes in already.

Sir Edward Leigh: My hon. Friend has taken several interventions. Some of us have loyally supported Ministers throughout this process, and we want him to be robust, keep his lead in his pencil, deliver the Bill and ensure that none of our laws are left in limbo. I encourage him to the last.

Mr Baker: I am extremely grateful to my hon. Friend for his robust support, and I shall certainly watch out for my lead.

Our approach is to provide for the greatest possible scrutiny and transparency of the statutory instruments as they come forward. We began that process of providing transparency in the delegated powers memorandum accompanying the Bill, and in recent days we have published further information on how clause 7 would be used, including yesterday two draft SIs in the key area of workers' rights, but there is more we can do to provide for scrutiny and transparency, which brings me to amendments 391 and 392 to 398, which will come before the Committee for a vote tomorrow.

I am pleased to repeat that the Government intend tomorrow to accept amendments 392 to 398, tabled by my hon. Friend the Member for Broxbourne, who is not here, but who nevertheless is a great champion of Parliament against the Executive, as he has demonstrated on multiple occasions. The Procedure Committee, which he chairs, agreed the amendments unanimously. I pay particular tribute to the Delegated Powers and Regulatory Reform Committee, whose report informed the Committee's work, I understand. If his amendments are not moved separately, the Government will be happy to move them formally at the appropriate moment.

The amendments will establish a sifting committee in the House to look at instruments made under the power in clause 7 and two other key powers in clauses 8 and 9. I draw the Committee's attention to the draft Standing Orders that my right hon. Friend the Leader of the House has published to establish a new Select Committee to consider the negative instruments in the way that my hon. Friend the Member for Broxbourne proposes. The amendments draw on the expertise of the Procedure Committee, and the Government believe that they offer a solution that will give transparency to the House over the Government's choice of procedure and ensure that the House can recommend that any negative instrument under clauses 7 to 9 instead be debated and voted upon as an affirmative instrument.

The Government have also tabled amendment 391, which will place our commitments to transparency in the Bill and require that explanatory memorandums relating to each statutory instrument include a number of specific statements. The amendments are aimed at improving the scrutiny and transparency of the SIs that are to come. If the House accepts them, they will together be more than the sum of their parts. The combination of the proposals of the Committee and the Government will mean that any deficiency the Government identify in retained EU law will be transparent to the House. In the light of this information, or any other concerns, the House will have a mechanism to propose a negative instrument for the increased scrutiny provided by a debate and a vote in the House.

I particularly noted what my right hon. Friend the Member for Broxtowe (Anna Soubry) said about the political costs of not complying with the Committee's recommendation. She nods; I am grateful. I am confident that, given that this proposal is in harmony with the way in which other Select Committees work in relation to the Government, it will provide an adequate means of holding Ministers to account on the choice of procedure.

Mary Creagh: In the absence of the hon. Member for Broxbourne (Mr Walker), whose proposal this is, does the Minister envisage introducing the enhanced sift

[Mary Creagh]

procedure—the mechanism for informing other Select Committees or Members with a particular interest in a subject—on Report?

Mr Baker: The hon. Lady has put her point on the record, but what we are doing is accepting the amendments tabled by my hon. Friend the Member for Broxbourne. I also draw her attention to the Standing Orders.

A number of Members have referred to the general need for a reform of the scrutiny of statutory instruments. I spent a very informative weekend reading the Hansard Society's book "The Devil is in the Detail", which I recommend to any Member who wishes to be fully apprised of the case for the reform of delegated legislation, but I must add that this is not the moment for a complete reform of secondary legislation. What we need to do is accept the amendments from the Procedure Committee, and to move forward.

Vicky Ford: Will my hon. Friend give way?

Mr Baker: I hope that my hon. Friend will forgive me if I do not. I am very conscious that I am only 20 minutes into my speech.

Vicky Ford: May I ask my hon. Friend to give way on this point?

Mr Baker: I will do so just the once.

Vicky Ford: May I make a very brief observation about the sifting committee and the expertise? In my experience, the scrutiny of detailed European legislation is sometimes best performed by people with expertise in it. That is why the House of Lords EU Committee has sub-committees on financial affairs, external affairs, energy and environment, justice, home affairs and so forth. Would my hon. Friend at least consider using a sub-committee of that kind, given that it might enable him to complete the sifting process more quickly?

Mr Baker: I think that my hon. Friend has made a strong case for her membership of the sifting committee. I hope that, if the Whips Office has heard her appeal, she will become a member in due course and will enjoy it very much indeed.

Let me now deal with amendment 2. Conditions similar to those in the amendment, tabled by my right hon. and learned Friend the Member for Beaconsfield, are proposed by the right hon. Member for Normanton, Pontefract and Castleford (Yvette Cooper) in amendment 48. Again, we have significant sympathy with the intention behind the amendments. However, they would introduce new terms into the law and invite substantial litigation, with consequent uncertainty about the meaning of the law as we exit the EU.

Mr Grieve: Will my hon. Friend give way?

Mr Baker: May I just finish making my case? I must point out to my right hon. and learned Friend that I can speak for two or three hours if I take all the interventions, or I can press on.

I hope to give the Committee some reassurance. Any provision made under clause 7 must be an appropriate means of correcting a deficiency in retained EU law arising from withdrawal. It is a strong test, and it represents a significant limit on the provisions made under clause 7. The limit can ultimately be guarded by the courts, although I note what my right hon. and learned Friend said about that. However, the right place in which to determine which changes in the law are appropriate is Parliament, which is why I hope Members will accept that their concerns have been addressed by the provisions that we have made for greater scrutiny and transparency in the case of each statutory instrument.

Mr Grieve: I have noted my hon. Friend's comments, and I appreciate them, but may I take him back for a moment? All these issues are linked. I acknowledge the contribution from my right hon. Friend the Member for West Dorset (Sir Oliver Letwin), but let me return to the discussion of amendment 1. One possibility might be that the list could only be added to by a statutory instrument. After all, given the extensive powers in the Bill, it would present a double lock. If the Government wanted a new power, or area of power, they could secure it through an SI anyway, because of the extent of the power that we are giving to them. The Minister might like to consider that point.

Mr Baker: I shall return to the clause 7 versus clause 9 argument a little later.

Amendments 3 and 4 were also tabled by my right hon. and learned Friend. The Government agree with his goal of ensuring that instruments under the Bill are accompanied by all the information that the House, the public and, indeed, the sifting committee need in order to understand what they can do and why. We also agree that more can be done to ensure that the House has the proper opportunities to scrutinise the instruments. As I have said, the Government have therefore accepted the amendments tabled by my hon. Friend the Member for Broxbourne, and we will also table amendments to address long-standing concerns about information. The Government believe that the proposed committee represents an option that balances our concerns about the ability to plan and the limited time available before exit day with some Members' well-stated and long-standing concerns about the efficacy of the scrutiny of negative SIs in this House. Those amendments will address the unique challenge posed by the secondary legislation under this Bill, ensuring that the Government's reasoning on procedure is transparent to the House and that the House can recommend that any negative instrument should instead be an affirmative one.

Beyond all that, the Government have tabled amendment 391 which will require that explanatory memorandums are alongside each SI and include a number of specific statements aimed at ensuring the transparency of SIs that are to come, and act as an aid to this House, providing more effective scrutiny. These statements will explain, for instruments made under the main powers in this Bill, what any relevant EU law did before exit day, what is being changed, and why the Minister considers that this is no more than is appropriate. They will also contain information regarding the impact of the instrument on equalities legislation. The wording of our amendment and that of my hon. Friend the

Member for Broxbourne differs from that proposed by my right hon. and learned Friend the Member for Beaconsfield, but, as he has said, he has put his name to it and I am pleased that we are therefore able to move forward.

I turn now to the issue of what is necessary and amendments 49, 65, 205 to 208, 216 and new clause 24. Amendments 49 and 65 bring us to the important debate about whether the power in clause 7 should allow necessary corrections or appropriate corrections. "Necessary" is a very strict test, which we would expect to be interpreted by a court as logically essential. Where two or more choices as to how to correct EU law are available to Ministers, arguably neither would be logically essential because there would be an alternative. Ministers therefore need to choose the most appropriate course. If two UK agencies, such as the Bank of England or the Financial Conduct Authority, could arguably carry out a particular function, the Government must propose which would be the more appropriate choice. Also, if the UK and the EU do not agree to retain an existing reciprocal arrangement and the EU therefore ceases to fulfil its side of the obligations, the UK could decide it is not appropriate for the UK to provide one-sided entitlements to the EU27; it might not be legally necessary for the UK to stop upholding one side of the obligation, but it might not be appropriate for us to continue if the EU is not doing so.

Yvette Cooper: It is my understanding that the Minister is saying that courts that were told that Ministers had two options, both of which might be necessary solutions to a particular problem, would therefore say that neither passed the necessity test because Ministers had chosen between the two of them. That sounds utterly ludicrous as a way in which the courts would make a decision. Will the Minister elaborate by providing a case law example of a situation where the courts have been given such a necessity test and have decided to rip up all necessary options on the basis that there were too many necessary choices?

Mr Baker: I will see whether, before I sit down, my memory can be jogged on an example of case law, but I am only a humble aerospace and software engineer and I do not mind saying to the right hon. Lady that I have sometimes observed that we dance on the head of a pin over particular words. In order to protect the law and the public purse, I think the Law Officers would require me to take appropriate advice from lawyers on the nature of these words and to abide by it as we proceed through the legislation.

Joanna Cherry: Earlier in our debate, the right hon. Member for West Dorset (Sir Oliver Letwin) said that we all know what "appropriate" means and so would a court. Can the Minister tell us what "appropriate" means in this context?

Mr Baker: I think what we would say to the hon. and learned Lady is that "appropriate" will follow the plain English definition, which she will find in various places, but what I want to do is move on.

I want to set out why it is important that the test of appropriateness extends to the use of the power in clauses 8 and 17, to which the right hon. Member for Ross, Skye and Lochaber has tabled amendments 205, 207, 208 and 216. For example, leaving the EU, the customs union and the single market may alter the way in which the UK complies with its international legal obligations in relation to taxation, and there will not always be a clear single choice about how to comply with those obligations. Clause 8 will give Ministers the flexibility, as necessary, to make those changes. Using the word "necessary" would risk constraining the use of the power to the extent that where it is appropriate for the UK to adjust our domestic legislation to ensure compliance with international obligations but where there are multiple ways to do so, we might not be able to ensure compliance with our important obligations under international law, thereby undermining the core intention of clause 8.

John Penrose *rose—*

Mr Baker: I shall be here for some hours if I take too many interventions, but I will give way to my hon. Friend.

5.30 pm

John Penrose: I will endeavour not to try my hon. Friend's patience too much; he is being very generous. I want to clarify one point. I think that his previous response on the difference between "necessary" and "appropriate" will have suggested to the plain non-lawyerly listener that he was accepting the principle that there should be no greater powers than are necessary to ensure that EU law is ported across correctly, and that the only argument he is making is that there might then be a legal interpretational problem when he has more than one choice. Will he at least confirm that he does not wish to bring in, for himself or for any other Ministers, powers that are higher than "necessary" as a basic principle, and that he will therefore try to find words that will give him that minimum level of—

The Temporary Chair (Mr Gary Streeter): Order. This is a rather long intervention, and the Minister has made it clear that he does not wish to take too many more interventions as he is seeking to make progress.

Mr Baker: I am grateful to my hon. Friend the Member for Weston-super-Mare for putting his own clarification into my remarks.

The Government wish to take the minimum powers necessary—the minimum powers required—to do the job before us, which is to deliver a working statute book by exit day. We do not intend to make any major changes of policy beyond those that are appropriate to deliver a working statute book, where the law after exit day is substantially the same as the law before exit day, so that individuals and businesses can rely on it. The issue surrounding the definitions of "necessary" and "appropriate" is a technical and legal one, rather than a general issue of intent, and I stand by what we have said. We understand that "necessary" would be interpreted as logically essential and could land us with the problem that I have illustrated, with Ministers facing a number of choices about how to proceed. So if I may, I will leave that issue there.

The use of the word "equivalent" in new clause 24 is just as problematic. Returning to the example of a reciprocal arrangement that no longer exists, if we were

[Mr Baker]

—with the support of this House and entirely appropriately in line with our agreements with the EU—to end the obligations that were placed on the UK in law, this new clause could lead to a court taking the view that that would not be keeping the equivalent scope, purpose and effect of the law in relation to how the law stood before exit. This would undermine the Bill's core objective of maintaining a functioning statute book once we leave the EU. I therefore urge right hon. and hon. Members not to press their proposed amendments, and the hon. Member for Brighton, Pavilion (Caroline Lucas) to withdraw her new clause.

I now want to address new clauses 1, 6 and 26, and amendments 33, 35, 36, 38, 39, 41, 68, 129 and 130, tabled by the Leader of the Opposition and others. These would all change the scrutiny process for secondary legislation made under the Bill. We have heard some fine speeches from distinguished parliamentarians, and it is clear that a great deal of thought has gone into the amendments and the arguments supporting them. First, let me be clear that we are committed to appropriate parliamentary scrutiny throughout the whole process of our withdrawal from the EU—Members will know that we make statements, Committee appearances and so on—and, as my right hon. Friend the Prime Minister has already made clear, Parliament will have a vote on the contents of the withdrawal agreement. Crucially, where we are seeking not to replicate current arrangements but to take substantially new approaches, there will be separate pieces of primary legislation for Parliament to work through, as we are beginning to see with the legislation that is being introduced.

However, we must be mindful of the large volume of statutory instruments necessary and the limited time available to work through them if we are to provide certainty and stability on exit. We are working to the timetable of the article 50 process, and there is over 40 years of EU law to consider and correct to ensure that our statute book functions properly on our exit from the EU. According to EUR-Lex—the EU's legal database—more than 12,000 EU regulations and over 6,000 EU directives are currently in force across the EU. If the majority of statutory instruments do not complete the parliamentary process before we leave the EU, there will be significant gaps in domestic law, which could raise real problems with real consequences. Our law currently gives powers to EU regulators across a wide range of areas that affect people's lives, from aviation safety to the environment, and we therefore have a duty to act.

New clauses 1 and 26 and amendments 33, 35, 36, 38, 39, 41, 68, 129 and 130 would all give a parliamentary committee or either House of Parliament the role of deciding the scrutiny procedure that each statutory instrument must follow. We are sympathetic to the intention behind the amendments, which is why we made our announcement in relation to the Procedure Committee's recommendations. All that is in harmony with the existing arrangements for the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee in the House of Lords.

Amendments 34, 37 and 40, tabled by the Leader of the Opposition, would apply the affirmative procedure to a statutory instrument of sufficient policy interest, which is ambiguous and does not involve a practical, clear trigger for the affirmative procedure. Ultimately, it would end up being for the courts to decide what is "of sufficient policy interest", creating legal uncertainty, which is contrary to the Bill's central aim. I hope that Opposition Members will agree that that has been superseded by our commitment to the sifting committee.

Amendment 22, tabled by the hon. Member for Rhondda (Chris Bryant), would introduce a means for the Leader of the Opposition or a certain number of MPs to trigger an automatic debate on an SI made under the negative procedure. Again, I hope that the hon. Gentleman will accept that that has been superseded by the sifting committee.

I will now address several amendments relating to the important matter of environmental protection, on which this Government have a proud record. Amendments 96, 97, 98, 138, 333 and 334 and new clauses 27, 62 and 63 were tabled by the Leader of the Opposition and others. We agree with the intentions behind the amendments and new clauses and understand hon. Members' concerns, but it is essential that the clause 7 power exists as drafted in the Bill. Its purpose is to make changes, often of a technical nature, to deal with deficiencies in retained EU law. While simple in nature, it is essential to ensuring that legislation that protects the environment and rights remains consistent and continues to function effectively once we leave the EU.

Turning to new clauses 27, 62 and 63, the UK has always had a strong legal framework for environmental protections, and that will continue. My right hon. Friend the Secretary of State for Environment, Food and Rural Affairs has recognised the risk of the governance gap, which has been explained, and that is why he announced on 12 November our intention to consult on a new independent and statutory body to advise and challenge the Government, and potentially other public bodies, on the environment, stepping in when needed to hold bodies to account and to enforce standards. We will consult on the specific scope and powers of the new body early next year. We understand the intention behind the new clauses, but they would create problems for our framework of environmental governance, about which we have made announcements.

New clause 27 would go further than the existing governance mechanisms for environmental protections set out in EU and UK law. For example, it would require the Government to give powers to this new independent body or bodies to set standards or targets and to co-ordinate action on the environment. Within the current EU mechanism, the exercise of those powers, such as legislating to set standards, would typically involve the Council of the European Union and the European Parliament; it does not normally rest solely with an independent body or bodies. Legislating for new standards and targets should be a matter for our Parliament in future.

New clause 62 would prejudge the consultation's outcome and would necessarily limit the possible remit of a new body by requiring that it be established by regulations under clause 7. This power for functions currently exercised by EU institutions could be replicated by being given to UK bodies to exercise. Therefore, for example, significant domestic changes to the law post EU exit or new areas of the environment would fall outside its remit.

While we support the intention behind amendments 97, 98, 96, 138, 333, 334 and new clauses 62 and 63, they give no definition of what an environmental protection is or precisely how one might know that such protections were being weakened or narrowed. We believe that the hon. Members would be preparing the starting gun for a vast quantity of litigation so we cannot accept the amendments to clause 7, 8 or 9 or the new clauses.

Allow me to reiterate, Mr Streeter. Clause 7 powers are temporary powers limited in scope. Restricting the use of those powers further, as many of the amendments seek to do, would threaten rights and protections established in domestic and EU law, which we will be retaining. This is contrary to what I believe is the intention behind many of the amendments, so restricting the power as proposed would be counterproductive and we cannot accept the amendments.

Amendments 25, 26, 27, 52, 109, 111, 115, 266, 268, 267, 222, 363 to 373 and new clause 76, plus those amendments consequential on them, deal with the protection of rights in relation to the power in clause 7 or parallel restrictions in clauses 8 and 9. The UK has a long tradition of ensuring that our rights and liberties are protected domestically and of fulfilling our international human rights obligations. The decision to leave the EU does not change that. I reiterate the Government's firm commitment to protecting rights throughout the EU exit process. As we have debated previously, the Bill ensures that, so far as possible, the laws we have immediately before exit day will continue to apply. As part of this approach, clause 4 will continue to make available any rights and so on which currently flow into domestic law through section 2(1) of the European Communities Act 1972 within the overall scheme of the Bill.

Moreover, the clause 7 power is already restricted so that it cannot amend, repeal or revoke the Human Rights Act 1998 or any subordinate legislation made under it. The restrictions sought by amendments 25, 109, 363 and 364 are therefore not necessary. I am aware that amendments 365, 26, 366 and 367 would place the same restrictions on the powers in clause 8. The clause 8 power is already restricted so that it cannot amend, repeal or revoke the Human Rights 1998 or any subordinate legislation made under it. The restrictions sought by amendments 365 to 367 are therefore not necessary.

Tom Brake: The Government have rightly excluded the Human Rights Act. I just want to understand why the Equality Act 2010 has not also been excluded.

Mr Baker: I will come on to the Equality Act within a page.

Amendments 52, 266, 267, 268, 370, 371 and 372 have been tabled by the right hon. Members for Normanton, Pontefract and Castleford, for Ross, Skye and Lochaber and for Carshalton and Wallington (Tom Brake). They would prevent any changes to the Equality Act. As part of the Government's clear commitment to maintaining equalities protections throughout the process of EU exit, we have tabled amendment 391, which will ensure that the amendments that will be made to equalities legislation under this and certain other powers in the Bill are transparent, and provide confirmation that the Minister has had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act.

Indeed, hon. Members may not be aware that the Government have already published a document on our website setting out the changes that we intend to make to the Equality Act, making it clear that they are limited to technical adjustments that are designed to ensure that the protections established in the Act continue to operate after exit.

Let me just run through them for the right hon. Gentleman. They include: references to the European Parliament; references to future EU obligations, including new EU obligations implemented under the European Communities Act 1972; references to EU law as a generic term and harmonisation measures; references to specific EU directives which are set out in the paper; and, finally, references to the UK as part of the European economic area. So I commend that paper to right hon. and hon. Members who are interested and/or concerned about it. With that in mind, as changes are necessary, as set out in the paper, I urge right hon. and hon. Members not to press their amendments.

5.45 pm

Amendment 222, which seeks to conserve consumers' rights and protections, also fails to supply a definition of what those might be or how this might be measured. It would open up the corrections, which will ensure crucial protections continue to operate, to an increased risk of litigation. However, let me reassure hon. Members that clause 7(1) is clear: Ministers may only do what is

"appropriate to prevent, remedy or mitigate—

(a) any failure of retained EU law to operate effectively, or

(b) any other deficiency in retained EU law,

arising from the withdrawal".

As I have said before, if an issue does not arise from our withdrawal from the EU, Ministers may not amend the law using the powers in clause 7.

I come to amendments 12 and 13, tabled by my right hon. and learned Friend the Member for Beaconsfield. Although the Government are sympathetic to his desire to ensure that certain conditions are met before clause 8 and 9 powers are used, we cannot support the amendments. The structure of the conditions set out by him introduce a number of tests into the Bill that we believe are not, at this point, adequately defined and are too subjective. They could therefore risk frustrating the Government's ability to ensure our international obligations are complied with, create uncertainty about the law and provoke a significant body of litigation.

On amendment 13, the Government do not believe that a series of statutory restrictions placed on the power in clause 9 are necessary. Exercise of the clause 9 power will be subject to the usual public law principles designed to ensure that the Executive act reasonably, in good faith and for proper purposes.

Amending the power so that regulations made under it could not, for example, make provisions of constitutional significance or remove any necessary protection, would be vague and opaque. It would also generate considerable uncertainty and, potentially, unnecessary litigation, given the lack of definition and clarity as to what these terms mean in practice. Again, clause 9 needs to be both clear and flexible to enable us to implement the withdrawal agreement or those elements of it needed prior to exit day which it would not be possible to include in the withdrawal agreement and implementation

Bill by virtue of the time available. I therefore urge my right hon. and learned Friend not to press his amendments to a vote.

Mr Grieve: I can understand the Minister's point on timing, but the reality is that the terms of amendment 13 are ones with which the Government must be very familiar, as they appear in lots of other legislation. So I find this slightly difficult to follow.

Mr Baker: I am grateful to my right hon. and learned Friend for putting me right on that point, but I shall now have to press on rather than explore it. *[Interruption.]* I am not in a position to answer it, but I will see whether my memory can be jogged.

I turn to the issue of children's rights, where I am grateful that I have the opportunity to discuss amendment 332 and new clause 53, which stands in the name of my hon. Friend the Member for East Worthing and Shoreham (Tim Loughton). I congratulate him on the powerful speech he made, reminding the House of its obligations. His new clause has received broad support across the House, including from my right hon. Friend the Member for Loughborough (Nicky Morgan), the right hon. and learned Member for Camberwell and Peckham (Ms Harman) and the hon. Member for North Down (Lady Hermon), among others. This new clause and amendment 332, tabled by the hon. Member for Walthamstow (Stella Creasy), give me the opportunity to clarify our position on child refugee family reunion and asylum seekers.

The Government's commitment to children's rights and the United Nations convention on the rights of the child is and will remain unwavering. Our ability to support and safeguard children's rights will not be affected by the UK's withdrawal from the EU. Domestically, the rights and best interests of a child are already protected through the Children Act 1989 and the Adoption and Children Act 2002, in addition to other legislative measures across the UK. Existing laws and commitments already safeguard children's rights.

The Government support the principle of family unity and we have in place a comprehensive framework so that families can be reunited safely. The Dublin regulation itself is not and has not been a family reunification route. It confers no right to remain in the UK on family grounds and there is no provision for children to apply for family reunification under it. Crucially, the Dublin regulation creates a two-way process that requires the co-operation of 31 other countries. We cannot declare that we are going to preserve its terms when we need the co-operation of other countries to make it work.

We understand our moral responsibility to those in need of international protection, and that will not change as we leave the European Union. We value co-operation with our European partners on asylum and we want that co-operation to continue, but the way to ensure that is through the negotiations, not by making changes to the Bill before we have been able to make progress on this matter. I am grateful to my hon. Friend the Member for East Worthing and Shoreham and those who support his new clause but, as he said, changes are required in immigration rules. I am grateful to him for his stating the probing nature of the new clause. I ask him to work with Ministers, whom I think he said he has now met, to deliver the right changes to the immigration rules.

Tim Loughton: I am grateful for the Minister's clarification, and I do hope that we can make some progress in, say, an immigration Bill. Nevertheless, will he explain to me why it requires the co-operation and agreement of 31 other countries for the UK to be able to say that we will take genuine unaccompanied asylum-seeking children with relatives who are legitimately in this country but who happen not to be their parents?

Mr Baker: My hon. Friend makes his case with particular force. I am sorry to have to tell him that I am not in a position to accept his new clause on that basis. I ask him to work with members of the Government on the immigration Bill that will contain the measures that he and the rest of us wish to see to ensure that we meet our humanitarian obligations.

Stella Creasy *rose—*

Mr Baker: I will give way to the hon. Lady once.

Stella Creasy: The Minister's colleagues gave a statement on 1 November 2016 that made the commitment to take children from Europe, and it is those children whose rights under the Dublin regulation would be taken away. Can he understand the concern about the fact that he has just announced that the requirement to work with 31 other countries would supersede that? Will he give a cast-iron guarantee that the commitment made in that statement on 1 November 2016 to take children from Europe and to do our fair share for refugee children will be honoured in full?

Mr Baker: These are matters for my right hon. Friend the Home Secretary and the Bills for which her Department is responsible. I hope the hon. Lady will forgive me and understand that it is with the Home Office that these matters need to be taken forward. This Bill is about how we leave the European Union with certainty, continuity and control in our statute book.

Amendments 15 and 16 are on the power to deal with deficiency—

Mr Kenneth Clarke *rose—*

Mr Baker: I just say to my right hon. and learned Friend that I am 51 minutes into my speech and I am only around halfway through it. I would prefer to press forwards.

Mr Clarke: I understand my hon. Friend's difficulties. He is responding to new clauses and amendments on an amazingly wide range of topics that keep going into other departmental areas, but it is quite useless if the winding-up speech consists of the Minister saying in a series of statements that he is in no position to answer the questions. If there is an important Home Office question, as there is with the issue of child refugees, it would be normal for a Home Office Minister to be in attendance and to rise in some suitable way to answer the debate. My hon. Friend is reading very competently his carefully prepared brief, which concludes at every stage by saying, "I hope that the amendment will be withdrawn."

Mr Baker: I am grateful for my right hon. and learned Friend's intervention, which has disappointed me neither in the sympathy that he expressed for my predicament nor in the sting in its tail. The Bill is the responsibility of

the Department for Exiting the European Union, with the collaboration of other Ministers who are assisting in its passage. He is absolutely right that it covers a wide range of issues. I believe that I have given an answer on the particular point raised.

On two points of technical legal detail, I have asked for my memory to be jogged in the course of the debate, and I very much hope that I will be able to give an answer before I sit down. My right hon. and learned Friend will understand that I am not, like him, a learned Member of this House; I am a humble aerospace and software engineer. It is necessary for me to go through the clauses of the Bill that relate to parliamentary scrutiny and do not require technical legal expertise.

Wera Hobhouse (Bath) (LD) *rose—*

Mr Baker: I will not give way, because I need to make progress and to keep my remarks to some form of limit.

Amendments 15 and 16, tabled by my right hon. and learned Friend the Member for Beaconsfield, seek to narrow the categories of deficiencies arising from our withdrawal from the EU. The removal of clause 7(8), as amendment 16 proposes, would restrict our ability to keep the law functioning as it does now. Subsection (8) is about deficiencies arising not only from withdrawal, but from how the Bill works. For example, the Bill does not preserve directives themselves, as we have already debated, but instead preserves the UK law, which implements them. In some instances, there are provisions in directives, giving powers or placing restrictions on Government or on EU institutions or agencies, which it would not have made sense to transpose in UK law, but which then need to be incorporated in order for the law to continue to function as it did before exit. For example, the Commission currently holds a power to restrict the disclosure of confidential information in the financial services sector, which is referenced by UK implementation of the capital requirements directive 2013, but which will need to be transferred to the UK. We might also want to transfer powers that the Commission currently has to define what counts as hazardous waste, which is currently in the waste framework directive.

Subsection (8) allows the clause 7 power to correct deficiencies that arise from that withdrawal together with the operation of the Bill. For example, it might be appropriate to lift a relevant part of a directive and insert it into UK law in order to keep the law functioning as close as possible to how it does presently.

Mr Grieve: If I may say to the Minister, he has actually provided a totally coherent and helpful answer, which dealt with a probing amendment that I tabled. I am most grateful to him for it.

Mr Baker: Well, I am extremely grateful to my right hon. and learned Friend, who I am very happy to see does remain my friend, as well as my constituency neighbour. I cannot tell him how happy I am to discover that that is the case.

Earlier, my right hon. and learned Friend asked me why Government could not accept additional protections requirements in amendment 13, given that that appears in other legislation. A similar test does appear in the Legislative and Regulatory Reform Act 2006, but the powers in that Act are rarely used, in part because of its complicated requirements. Moreover, the detail of that Act and its powers justify such a test as it is about deregulation. We consider that the existing restrictions in clause 9 are the right ones.

I move forward to amendments 131, 269 to 271, and 359 on restriction of the powers relating to EU citizens' rights. Since those amendments were tabled, we have secured much-needed agreement on citizens' rights through our negotiations. I hope Members will be glad that we have now made sufficient progress, subject to the European Council meeting, and that we will be able to move forwards.

The final agreement with the European Union on citizens' rights is still subject to our negotiations with the EU. However, of course, we expect to give effect to those in the withdrawal agreement and implementation Bill. The House will therefore have both a meaningful vote on the agreement and on its debates on the primary legislation necessary to implement it. I therefore invite hon. Members to withdraw their amendments.

Robert Neill (Bromley and Chislehurst) (Con): On amendment 359, we seek clarity on the current wording in relation to deficiency by means of a loss of reciprocity. We want to clarify that the Government do not intend to use it in a broad sense—in theory, it could be used in a very wide sense. In fact, it is intended to be narrow, so that major changes to policy, such as citizens' rights to work or to come to this country, will be effected by primary regulation, not by regulation under clause 7.

Mr Baker: I understand my hon. Friend's point. Just to reassure him: it is our firm intention to carry through the agreement, which he can read in the joint report of the negotiators, into legislation so that citizens can rely on it in the United Kingdom through that withdrawal agreement and implementation Bill, which I hope we can put before the House in due course.

Amendments 31, 32 and 57 seek to remove so-called Henry VIII powers. I can confirm that amendment 32 is not necessary because the power in clause 7 cannot be used to amend the Act itself. It would be outside the scope of the power—ultra vires. Neither can the power in clause 8 be used for this purpose. Let me be clear: only the power in clause 9 states that it can amend the Bill. None of the other powers in the Bill make that statement. As I said earlier in an intervention, in the event that the use of a clause 9 power is proposed to amend the Act, it would be subject to the affirmative procedure.

6 pm

Amendments 57 and 110, meanwhile, would unnecessarily and seriously limit our ability to make corrections. Whether the deficiency is in primary or secondary legislation, it is not a meaningful indication of the type of change that needs to be made or the significance of the change. To be ready for exit day, a large number of fairly straightforward changes will need to be made to primary legislation in exactly the same way as they might be made to secondary legislation. For example, section 21(1) of the Public Passenger Vehicles Act 1981 makes reference to "in another member State". Section 21(3)(b) says,

"of the other member State",

and paragraph 7(c) of schedule 3 says, "by another member State". The power therefore needs to be broad enough to allow for corrections to be made to both primary and secondary legislation. We are more concerned

with the category of changes that must be made than where they are required. Textual and technical changes must be made in primary legislation if we are to have a functioning statute book on exit day. That is why we are allowing this secondary legislation to amend primary legislation.

The Bill, like almost all others, contains a long list of definitions that could conceivably require updating in the future. To do so pursuant to some future Act by a statutory instrument would be to exercise a so-called Henry VIII power. However, let us consider a hypothetical scenario. A statutory instrument made under the Health and Safety at Work etc. Act 1974 will contain key elements of the UK's occupational safety regime in secondary legislation. That could be amended by statutory instrument. Now, we do not propose to do such a thing. I am just trying to indicate that although that would be a case of amending secondary legislation through secondary legislation—not a Henry VIII power—it would have profoundly important effects. The point I am making is that, although the argument about Henry VIII powers is rhetorically powerful, we are most concerned about the category of change that needs to be made and not, first and foremost, where it needs to be made. I am pleased that we have been able to accept the sifting committee amendments and bring forward the commitments to the information in the explanatory memorandum so that the Committee can be comfortable with the powers that we are using. It is the Government's position that it is the substance of the change that matters.

Amendments 5, 61, 88, 104, 108, 121, 342 and new clause 37 would all impose some restriction on the clause 7 power concerning public bodies. If we want to provide certainty for citizens and business, it is important that we are able to ensure that all important functions currently carried out at an EU level can be carried out at a UK level in time for exit day. Amendments 121 and 108 would hamper this by preventing the power from being used to create new public bodies. We envisage using the power in this way only very rarely because an existing UK body should be able to take on the function in most instances. In addition, any use of the power to create new bodies would be subject to the affirmative procedure, so both Houses would need to approve the Government's proposal. The provisions sought by amendment 104 to make any new public bodies temporary would simply defer uncertainty for later and cause unnecessary disruption.

The Government agree that we should ensure that no important functions are lost as we leave the EU, as amendments 5, 61 and 342 and new clause 37 seek to do. However, that is precisely why we need the clause 7 power. There might be a small number of functions that do not make any sense outside the EU—for example, the functions of the Translation Centre for the Bodies of the European Union, or the authority of the European political parties and European political foundations. Those functions could be removed only if, outside the EU, they were somehow deficient, and not simply because, as a matter of policy, Government disliked them. The power could not be used to remove functions relating to rights and protections—the concerns of amendment 342 and new clause 37—unless they somehow became deficient outside the EU, and removing functions entirely was an appropriate response. All of that would, of course, be laid out in the accompanying explanatory memorandum.

The normal requirements in relation to producing impact assessments will apply, as appropriate, where we replace, abolish and modify functions, as sought by amendment 88. In addition, we have already committed to producing an explanatory memorandum with each instrument. I hope I have satisfied the concerns of right hon. and hon. Members in regard to those amendments.

Let me move on to the power to sub-delegate legislative functions. I thank my right hon. and learned Friend the Member for Beaconsfield, and I should pay tribute to him at this point, because it is appropriate to say that his contribution to this Bill will long be remembered in history for its substance and quality and for keeping me on my feet on matters I had never dared to think I would trespass on.

As I have already stated during the debate, ensuring that all important functions currently carried out at EU level can be carried out in an appropriate way in the UK in time for exit day is a vital part of providing certainty for businesses and individuals. We recognise that the transfer of legislative functions to public authorities and the creation of new such powers may concern many Members. Again, it is not something that anyone should take lightly. However, conferring powers on public authorities to make legislation is not a novel approach in the UK. While my right hon. and learned Friend has used the courts and tribunals as one example of where this currently happens, there are other important areas where it already happens, and where it will be necessary to transfer EU legislative functions to UK bodies.

Conferring powers on public authorities to allow them to make provisions of a legislative character or other legislation can be an appropriate course of action, particularly where there is a need for specialised, technical rules to be developed, introduced and maintained by a body that has the necessary dedicated resource and expertise. There are good examples of where Parliament has already provided for this approach in the UK. Our financial regulators, the Prudential Regulation Authority and the Financial Conduct Authority, have been given the responsibility by Parliament of developing and making the detailed rules needed to ensure that financial services firms are stable and well managed and meet the needs of consumers. Of course, those regulators can exercise their rule-making powers only according to the policy set by Parliament.

Mr Grieve: My hon. Friend touches on an important issue. Might it not be the case that any such power done by regulation ought to be done by affirmative resolution? I just suggest that that might be the solution to dealing with tertiary powers, because of their unusual nature. In view of the list he has given us, it seems to me that, in all likelihood, these things would be done by affirmative resolution, but that is something the Government might like to consider between now and Report.

Mr Baker: I just draw my right hon. and learned Friend's attention to paragraph 1(2)(c) of part 1 of schedule 7, which would require that the affirmative procedure be used if a provision

"provides for any function of an EU entity or public authority in a member State of making an instrument of a legislative character to be exercisable instead by a public authority in the United Kingdom".

So instruments of a legislative character coming across would trigger the affirmative.

Mr Grieve: I take it, therefore, that that covers all the points my hon. Friend has just raised at the Dispatch Box.

Mr Baker: There are also some matters in relation to fees and charges, which we discussed earlier in the debate. What I would say to my right hon. and learned Friend is that, where he has doubts, we have agreed to the sifting committee, and if he is concerned, I hope he will consider membership of that committee so that he can play his part in seeing through this set of measures.

Mr Charles Walker: May I apologise, as Chair of the Procedure Committee, for arriving late to my hon. Friend's speech? I thought I had missed all of his speech, then I realised I had missed half of it, but it now seems that I have only missed a third of it. However, I do apologise for arriving late, and I hope he accepts that apology at face value.

Mr Baker: I am extremely grateful to my hon. Friend.

Let me return to my notes in order that I might give the Committee an accurate presentation of these measures. Where this type of specialist legislative function exists at EU level, we will need to ensure that the responsibility is transferred to the appropriate UK body so that the UK has a fully functioning regulatory regime in time for day one of EU exit. This might be the case where, for example, it is more appropriate for the Health and Safety Executive in the UK to update lists of regulated chemicals than the Secretary of State, or where it would make sense for the Prudential Regulation Authority to take on responsibility for updating monthly the detailed methodology that insurance firms must use to prudently assess their liabilities. Both these legislative functions are currently carried out at EU level and will need to be taken on by the appropriate UK regulator after exit.

To reply to the point made by my right hon. and learned Friend the Member for Beaconsfield, any SIs made under clause 7 that transfer a legislative function or create or amend any power to legislate will be subject to the affirmative procedure. This is provided for in schedule 7. Therefore, Parliament will be able to debate any transfer of powers and consider the proposed scope of such powers and the scrutiny proposed for their future exercise, which will be set out in any instrument conveying that power. Recognising that some of the existing EU regulation that will be incorporated into UK law will be of a specialised and technical nature, clause 7 allows the power to fix deficiencies to be sub-delegated to the UK body that is best placed to perform the task. EU binding technical standards—the detailed technical rules developed by EU regulators for financial services—are a good example of where we might sub-delegate the clause 7 power. These standards, which run to almost 10,000 pages, do not make policy choices but fill out the detail of how firms need to comply with requirements set in higher legislation. The PRA and the FCA have played a leading role in the EU to develop these standards, and so they already have the necessary resource and expertise to review and correct these standards so that they operate effectively in the UK from day one of exit. I appreciate the concerns of my right hon. and learned Friend and the hon. Member for Nottingham East, but I hope I have demonstrated why we cannot accept these amendments.

Amendments 17, 360 and new clause 35 require additional information. As I have said, we have tabled amendment 391, which will require the explanatory memorandums alongside each statutory instrument to include a number of specific statements aimed at ensuring the transparency of the SIs that are to come and acting as an aid to the most effective scrutiny that this House can provide.

I would like to take a particularly special moment to reassure my hon. Friend the Member for Bromley and Chislehurst (Robert Neill), in whose name amendment 360 is tabled, that we have laid in the Library draft SIs that will help everyone to understand the sorts of changes that we might need to make under clause 7. I would like to reassure him that the Treasury has been engaging with the financial services industry extensively since the EU referendum on the range of issues affecting the sector as we withdraw from the EU. That engagement continues and it includes regular official and ministerial discussion with industry and trade associations and bodies such as the International Regulatory and Strategy Group. That includes discussions on our approach to the domestication of EU financial services regulation through this Bill. That will continue and grow throughout 2018. The Treasury is also working closely with the Bank of England and the FCA to ensure the UK's smooth and orderly withdrawal from the European Union.

By supporting a close working partnership between industry, regulators and Government, the Government will ensure that their approach to domesticating EU financial services regulation is well understood and based on input from stakeholders. Consistent with the objectives of this Bill, the approach in financial services is to provide certainty and continuity for firms after exit with the UK maintaining high regulatory standards. Financial services is one of the areas where a bold and ambitious free trade agreement could be sought. We are ambitious for that deal and we would do nothing in clause 7 to undermine it.

Robert Neill: I am grateful to the Minister for devoting that portion of his speech to the detail on financial services. That is important for the City, as he knows, and the proposal to publish draft statutory instruments is a well-tested and welcome route.

Mr Baker: I thank my hon. Friend.

6.15 pm

Vicky Ford: I have a quick question about financial services legislation and deficiencies. I want to get it clear in my head, as a non-lawyer, that deficiencies would not cover material policy changes. For example, European banks, including British banks, currently do not have to hold any capital against sovereign debt issued by EU member states. Changing that could be considered to be dealing with a deficiency, because we will no longer be a member state, but it would be a policy change. Will the Minister confirm that that sort of amendment would be picked up and would go through the affirmative procedure?

Mr Baker: The first point to make relates to my hon. Friend's last point. We have agreed to the sifting committee, which will be able to recommend—

Peter Dowd (Bootle) (Lab): It will be very busy.

Mr Baker: The committee will be busy, and that is why I am so grateful for the fact that several hon. Members—presumably including the hon. Gentleman—seem to be volunteering to do the important duty of serving on it, which no one should take lightly. I say to my hon. Friend that we have been extremely clear that any major change will come through primary legislation, but I cannot say that there will be no policy changes at all, however minor. The reality is that if a function comes back to the UK and we have to make a choice about whether it is allocated to the PRA or the FCA, that could be described as a policy choice.

I want to be clear with the Committee. I cannot say that there will be no policy changes whatever, but I can say that the Bill is about certainty, continuity and control. It is about making sure that the law works the day after we exit in substantially the same way as it worked the day before, from the point of view of those who are subjected to it. I can see that my hon. Friend brings great insight to the matter.

Matthew Pennycook: On a related point about the new sifting committee, will the Minister outline the Government's view—this is partly a matter for Standing Orders—on how the chair of that committee would be appointed and whether Parliament could have a role in the election of the chair, rather than the post being appointed by the Government?

Mr Baker: The hon. Gentleman has been generous enough to say that he appreciates that that is a matter for Standing Orders. I am very sensitive to the role and powers of Parliament, which we have discussed throughout proceedings on the Bill. As a Minister, I really do not want to stand at the Dispatch Box and trespass—in this debate, of all places—on Parliament's right to set its own Standing Orders.

Mr Charles Walker: We based the model on the European Scrutiny Committee, in which the Chairman is appointed.

Mr Baker: I am grateful to my hon. Friend.

I move on to consent from the devolved Administrations. Amendments 73, 233, 239 and 240 were tabled by the right hon. Member for Ross, Skye and Lochaber and the hon. Members for Airdrie and Shotts (Neil Gray) and for North East Fife (Stephen Gethins). Taking the right hon. Gentleman's amendments together, we are committed to continuing to respect the devolution settlement fully. We will work closely with the devolved Administrations as we develop fisheries and agricultural legislation, which will be brought through by separate Bills to deliver an approach that works for the whole United Kingdom.

At this point, I hope that the Committee will not mind if I refer to points raised in our previous debate on devolution. Amendments were tabled about a restriction on the power relating to national security. As my right hon. Friend the Prime Minister has said, we are proposing a bold new strategic agreement that provides a comprehensive framework for future security, law enforcement and criminal justice co-operation—a treaty between the UK and the EU—that would complement our existing extensive and mature bilateral relationships with our European friends to promote our common security. That is just one outworking of the Government's commitment to national security.

I now turn—I think, finally—to amendment 385 and new clause 77. Amendment 385, tabled by the hon. Member for Birmingham, Yardley (Jess Phillips), seeks to replicate the protections in part 3 of the Criminal Justice (European Protection Order) (England and Wales) Regulations 2014 in relation to protected persons. As I understand it, the amendment seeks to provide that the relevant authorities in England and Wales would continue to recognise and act on the orders made under the EU directive by the remaining member states, whether or not they act on ours.

I congratulate the hon. Lady on her powerful speech, but we cannot accept the amendment at this time because our continued co-operation with other EU member states' courts is a matter to be negotiated. The outcome of the negotiations is not yet certain, and it would therefore be premature to seek to replicate in our law one side of a reciprocal arrangement that may not continue. However, I am happy to make it clear that if the forthcoming negotiations produce an agreement to continue access to the regime established under the directive, or something like it, appropriate steps in legislation will be brought forward to implement it at that time. I therefore urge her not to press her amendment.

Jess Phillips: I hear what the Minister is saying and I take on board that this has to go through the new negotiations. What I am trying to do with the amendment is to ask Ministers to remember that this needs to go through the negotiations, because it was completely missing from the White Paper on the earlier negotiations.

Mr Baker: The hon. Lady's point is well made and has been heard by me and my right hon. and hon. Friends, and I am grateful to her for making it.

The hon. Lady also tabled new clause 77. It may assist the Committee if I explain that the Government are taking forward a range of work to tackle violence against women and girls and that we are already required to lay annual reports before Parliament on the issue in the context of the Council of Europe convention on preventing and combating violence against women and domestic violence—the Istanbul convention.

The coalition signed the Istanbul convention in 2012 to demonstrate its strong commitment to tackling violence against women and girls, and this Government have made absolutely clear our commitment to ratifying it. The convention seeks to continue promoting international co-operation on this issue. Indeed, it is the first pan-European legally binding instrument that provides a comprehensive set of standards to prevent and combat violence against women.

The hon. Lady will know that we have engaged and will continue to engage with a range of international partners, including the EU, in our efforts to tackle this issue. For example, we recently participated in work with the Council of Europe—as Members will know, it includes both EU and non-EU member states—to develop a best practice guide on stopping forced marriage and female genital mutilation.

I know the hon. Lady desires ensuring that Parliament is updated on this issue. As she will be aware, on 1 November we laid the first report on progress towards ratification of the convention, as required by the Preventing and Combating Violence Against Women and Domestic Violence (Ratification of Convention) Act 2017. The report,

which we are required to lay annually, sets out the action we are taking to tackle violence against women and girls and how we comply with the measures set out in the convention. In addition, once the UK has ratified it, we will be required to submit regular reports on compliance to the Council of Europe. As right hon. and hon. Members will appreciate, we want to avoid duplicating our existing reporting requirements in this area.

We are committed to doing all we can to address violence against women and girls both domestically and internationally. As the hon. Lady will be aware, our cross-Government strategy outlines our ambition that no victim of abuse is turned away from the support they need. It is underpinned by increased funding of £100 million, and a national statement of expectations sets out a clear blueprint for good local commissioning and service provision. I hope that I have reassured the hon. Lady that the Government have been, and will continue to be, committed to tackling violence against women and girls and to updating the House on our work in this area and that she will therefore not press her new clause.

Tom Brake: Will the Minister give way?

Mr Baker: Before I conclude my opening remarks, I will give way to the right hon. Gentleman.

Tom Brake: It is possible that I switched off, or perhaps nodded off, during the past hour and 20 minutes, but I do not think I heard the Minister refer to my amendment 124 on the single market, which I assume means that the Government are supporting me.

Mr Baker: The right hon. Gentleman enjoys a jest, but I hope that the Committee will understand that, as I set out at the beginning of my speech—I have now been on my feet for an hour and 20 minutes, compared with an indication that I would take an hour, so I needed to pare down my remarks—it is not the Government's policy, as he knows, to remain in the single market and the customs union.

In the interests of allowing other hon. Members to contribute to the debate, I will conclude my remarks. We face an unprecedented legislative challenge, to which the power in clause 7 is the only practical solution. The power is only a temporary solution to achieving our key objective: a functioning statute book in time for exit day. The Government believe that we have made significant concessions on the issue, both with the sifting committee and by putting into statute the requirement to include certain information in the explanatory memorandums. I hope that those concessions have tackled the concerns expressed throughout our consideration of these amendments. I am conscious of the commitment I gave to my right hon. and learned Friend the Member for Beaconsfield in relation to the scope of the powers, and I look forward to working with him. I will finish by thanking my hon. Friend the Member for Broxbourne for all that he has done, with the unanimous support of the Procedure Committee, to ensure that the House has the proposal for a sifting committee.

Helen Goodman: It is a great pleasure to follow the Minister, who presented a rather unbending policy posture this afternoon, but with his usual great good humour. On Second Reading I spoke mainly about the problem of the Henry VIII powers and the excessive use of delegated legislation in the Bill, and I feel justified, given the criticism outside the House that this was a power grab by Ministers.

When looking at clause 7, there are two big issues that we need to address: the scope and content of the delegated legislation, and the institutional architecture. I was therefore pleased to be a member of the Procedure Committee when it agreed to a report that acknowledged the problem and said that the House has a unique and unprecedented requirement and that we need special mechanisms to suit the task ahead. When I first told the hon. Member for Broxbourne (Mr Walker) last January that we should be looking into the Henry VIII powers, I think he was rather underwhelmed, but I think that now, on reflection, he is pleased that we did so. Only he could have secured a consensus between, for example, the hon. Members for Chichester (Gillian Keegan) and for Wellingborough (Mr Bone), the Scottish National party and me, which is a great credit to him. Our report sought a committee of the House to oversee all the delegated legislation.

I am happy to support amendments 393, 395, 396 and 397, which will put in the Bill the requirement for a sifting committee. I am even more pleased that the Government have accepted those amendments—the first changes they have accepted since publishing the proposals last summer. They will give the House a key role in overseeing the delegated legislation. As the Minister said, it is extremely important that Ministers will be required to produce explanatory memorandums. Without those, the committee would have a next to impossible task.

I think that the approach whereby the committee will give advice to Ministers so that statutory instruments can be upgraded from the negative to the affirmative resolution procedure is absolutely essential, because it means that the committee will be able to say that on some issues there must be a debate and a vote of the whole House, or that Ministers must provide an adequate explanation. I also think that the timetable that we have set out, of 10 days, is reasonable. However, I have some doubts about amendments 394 and 398, which would allow Ministers to step outside the process when they believe that the matter under consideration is urgent, because, as we all know, that could be abused by being stretched in a way that undermines the process.

I know that hon. Members, particularly those on the Opposition Benches, are somewhat doubtful about the efficacy of the amendments, but I pray in aid the Hansard Society's assessment—I think it is the most neutral and impartial assessment one could look for—which agrees that the procedure has been strengthened. There is now a requirement to lay accompanying documents. The House will have more power, and the committee will be able to refer statutory instruments to further debate and upgrade the level of scrutiny.

I regret that the amendments do not reflect fully the report that the Procedure Committee published in November, which said that there should be a scrutiny reserve. That is what the European Scrutiny Committee has and I think that that would be better. It would also be better if Ministers followed the Committee's recommendation to publish now a full list of the delegated legislation they expect to bring forward.

The amendments tabled by my hon. Friend the Member for Greenwich and Woolwich (Matthew Pennycook), who is on the Opposition Front Bench, would strengthen

[Helen Goodman]

the process significantly by ensuring that Parliament was able to decide rather than just be consulted. He referred to the terrible saga of tuition fees, where the House was ignored by the Government. That is not reassuring and Ministers must know that. Indeed, one wonders at Ministers who did that knowing that this proposed legislation would be brought forward with a great package of statutory instruments under the negative procedure. That seems to be an extraordinary bit of behaviour. My hon. Friend also tabled amendments that would enable raising the scrutiny level to super-affirmative. Perhaps Ministers should still consider that.

Hon. Members interested in the sifting committee's terms of reference, make-up and membership will have another opportunity to debate them when the Standing Orders come forward. The Leader of the House put forward some Standing Orders, but they are amendable. If hon. Members wish to change them, it is open for them to do so. I remind all hon. Members on both sides of the House that House business is not whipped business, so they do not need to fear—*[Interruption.]* I can see one Minister looking at me quizzically. House business is not whipped business, so Members can take a view in line with their conscience on what they think would make for the strongest sifting committee.

On the scope of clause 7 and the content and substance of the statutory instruments, Ministers are being very inflexible and I do not think that that will serve them well. My constituents have contacted me—I am sure other hon. Members have been contacted—with their concerns about environmental policy and animal sentience. I know Ministers have another route for dealing with the animal sentience issue. We also have very strong concerns about children's rights. In September, we had a very good seminar on children's rights led by Liverpool University's law department, which brought together people with concerns about this issue from all parts of the United Kingdom, including Scotland and Northern Ireland. I really feel that the Minister's response on new clause 53 and the position of child refugees is very disappointing, as is what he said about the UN convention on the rights of the child, which is covered by amendments 149 and 150. Now, that has not been debated today, but we will be voting on it later.

I want to point out to the Minister that he cannot rely on the Children Act 1989, which contains provisions on the best interests of the child, in the way he seems to think he can, because it applies only in certain classes of case referring to children. For example, it does not apply to housing decisions. It is simply not the case that the child's best interest always has priority in English law, and if we wanted to do something about that we would incorporate the UN convention on the rights of the child into English law, as we did with the European convention on human rights and the Human Rights Act in 1998.

The Minister was very forthcoming in his debate with the right hon. and learned Member for Beaconsfield (Mr Grieve) on the question of looking again at the definition of deficiencies and the list of examples in the Bill. However, many hon. Members will have been extremely disappointed by his inflexibility and failure to shift on the question of whether the negative resolution process can be used where the Minister thinks it is appropriate and not necessary. This was covered by my hon. Friend the Member for Nottingham East (Mr Leslie) in amendment 68 and my right hon. Friend the Member for Normanton, Pontefract and Castleford (Yvette Cooper) in amendment 49. I have to say to the Minister that I do not think that he convinced many Opposition Members on that.

Similarly, on tertiary legislation, it is incredible to argue that the financial regulators are not making policy choices. They are. It may well be that they are in a better position given the length, complexity and technical nature of such matters to be the people responsible for those regulations. It may well be that they are in a better position to do that than Members of this House, but I do not think the Minister should claim that policy choices are not being made here, because they clearly are being made all the time.

Mr Baker: I will have to check the record—I was just flicking through my speaking notes—but I am sure that when I said that there were no policy decisions, that was about a 10,000 page document about how institutions were to comply with regulations. On the particular point about tertiary legislation and the financial regulation system, I feel sure that when the hon. Lady and I served together on the Treasury Committee she would have been as indefatigable a defender of the independence of the Bank of England as I would have been. Surely she does not want to undermine that.

Helen Goodman: I do not wish to undermine that. I just want the Minister to present what I believe to be a more accurate picture to the House about the content of tertiary legislation. That is the point that I am making.

It simply comes down to the fact that clause 7 gives Ministers too much scope. That brings into doubt whether the stated intention of the Bill, which is, simply, to translate the body of European law on to the UK statute book, is all that can happen once the Bill is passed. That is the problem with it.

The thing that will probably most concern our constituents is the proposal to abolish the functions of the EU agencies. That is extremely worrying and we do not get clear answers from Ministers on individual cases. My hon. Friend the Member for Wakefield (Mary Creagh) spoke about this in relation to the European Environment Agency and the European Chemicals Agency. The Minister will have seen, as I did yesterday, on the front page of the *Financial Times* the pressure from the chemicals and pharmaceuticals industries over chemicals and medicines safety regulations. When we ask Ministers in other Departments what will happen, we do not get any certainty. This is not at all reassuring. There are big risks for the economy if we do not handle this much better than the Government are handling it now. The issue of the regulations of the agencies is the thing that can have the most significant impact on the economy. Whatever else people voted for when they voted to leave the EU, they certainly did not vote to lose jobs and be poorer.

Mr Charles Walker *rose—*

Helen Goodman: But before I sit down, I give way to the hon. Gentleman.

Mr Walker: I thank the right hon. Lady—I mean the hon. Lady—for her kind words. Why she is not right honourable escapes me! Perhaps that will be remedied soon.

One of the important things to remember about the sifting committee, as she reminded me yesterday, is that if, as I suspect, there will be eight Government members and eight Opposition members, the chair, who will be appointed, will only cast a vote in the event of a tie. That is the very effective check and balance built into the committee. Yes, it might be—will be—a Government chair, but if all eight Opposition members vote and the seven non-chair Government members vote, the chair will not come into play. He or she will only come into play in the event of a tied vote.

Helen Goodman: The hon. Gentleman is displaying his usual charm in trying to make hon. Members feel that the Standing Orders put forward by the Leader of the House are peerless. I suspect that hon. Members will want to come back and debate the make-up and terms of reference at the time. I would also be grateful if Ministers could relay to the Leader of the House that we are disappointed that neither she nor her deputy have been present at any point in this debate, when we have been discussing something that concerns the role of the House. We hope very much that they will also be flexible if, when we have that debate, there is a consensus for changing the draft Standing Orders just published.

Robert Neill: It is a pleasure to follow the hon. Member for Bishop Auckland (Helen Goodman) and to participate in this debate. This, of course, is what Parliament is about at the end of the day. The amendments, including the two that stand in my name and that of my hon. Friend the Member for Wimbledon (Stephen Hammond), which have been debated at length, are all about improving the Bill. I noticed in the world of Twitter and spin merchants this afternoon the suggestion that amendments to the Bill on key issues, if carried, might somehow weaken the Government's position with our European counterparts and undermine the confidence of our European partners in our ability to deliver. Shall we just park that as the tosh and nonsense that it is? Anyone who spins that out, on whoever's behalf, should be ashamed of themselves.

I know that the two Ministers certainly would not take that view. The spirit in which they have approached the debate is welcome. This is about improving the Bill to ensure the right outcomes at the end of the day. That is why the points made by my right hon. and learned Friend the Member for Beaconsfield (Mr Grieve) were so important and why I endorse every word he said. It is also why I warmly welcome the work of the Procedure Committee and my hon. Friend the Member for Broxbourne (Mr Walker) in finding a means to a better level of triaging, in effect, of these very significant statutory instruments and regulations.

The point has been well made by both my right hon. and learned Friend and my hon. Friend that the broader picture here is how we scrutinise secondary legislation in this place. I think that everybody concedes that it is woefully inadequate and does not bear comparison with many other Parliaments. It is an example of how being the mother of Parliaments does not necessarily mean we are the best. We need to improve our work, but I think we are taking a workmanlike and sensible approach, which I appreciate. There will, no doubt, come a point when we shall need to look at the way in which we deliver the deal—and I am delighted that we are now able to move on to phase 2. I look forward to the time when the House is given a proper vote on that, or, indeed, on the lack of any such deal.

6.45 pm

Ultimately, "taking back control" means the parliamentary institutions taking back control. It means the House of Commons taking back control. It does not mean giving control back to Ministers or civil servants, or, indeed, to plebiscites, which exist only as creatures of statute passed by the House. As the Minister said, giving the House real powers enabling it to have a proper oversight of both the outworking of the deal and the changes that we will have to make to have a proper, functioning statute book will be all the more important at the end of the day, when we leave the European Union.

The Minister kindly anticipated what I was going to say about the two amendments that I tabled, so I can deal with them comparatively briefly. They are both probing amendments. I tabled amendment 359 because I was concerned about the interpretation of clause 7(2)(c) in respect of deficiencies. The Minister has largely dealt with the point that I was concerned about, which was that, on one view, the wording could have captured fundamental aspects of EU law. For instance, the right of an EU national to work in the UK, or the right of a business established on the continent freely to sell goods and services here, is in a sense reciprocal to the ability of UK nationals or businesses to do the same in other EU states. Changes in that arrangement would constitute major policy changes. I accept the Minister's assurance that that is not the intention of clause 7 and would not be the intention of regulations made under it. He will understand, however, that the issue is important because the pre-eminence of London as an international financial centre is partly due to the ability of firms to post staff swiftly to the UK from within the EU and elsewhere in the world. Any new regime must facilitate that, and we do not want any regulations to change the position, but I accept the Minister's helpful assurances.

As for what the Minister said about amendment 360, I could almost have written his speech. I am very grateful to him and also to my hon. and learned Friend the Solicitor General, who has been most constructive in engaging with organisations such as the Financial Markets Law Committee. As the Minister will appreciate, a huge volume of EU-based regulation must be dealt with not only by financial businesses but by the lawyers who advise them. It is a burden on the Government lawyers who do the drafting, but it is also a burden on those advisers. What the Minister said about the earliest possible involvement and consultation was very welcome, and I appreciate the fact that that will be ongoing. I was particularly pleased to hear of the intention to publish draft statutory instruments, because that is a well-trodden and very valuable route.

The Financial Markets Law Committee and the International Regulatory Strategy Group bring together some of the greatest expertise that can be found in this sphere. The committee is chaired by Lord Thomas of Cwmgiedd, the former Lord Chief Justice, while the strategy group contains eminent practitioners from a range of relevant disciplines, who have day-to-day knowledge of how these things work. That is indicative of the critical mass that London has as a financial

services centre. I am sure that the Government can only benefit from ongoing engagement with those organisations.

I have been able to shorten my remarks a good deal, much to the relief, no doubt, of many. I welcome the Minister's reassurances on those two points, but I ask him to stick to the principle that this is all about scrutiny and taking back control here. That, indeed, is the job that we are doing now in scrutinising the Bill.

Steve McCabe (Birmingham, Selly Oak) (Lab): I want to speak briefly in favour of amendments 15 and 49, 132, and 5 and 2, tabled by the right hon. and learned Member for Beaconsfield (Mr Grieve), my right hon. Friend the Member for Normanton, Pontefract and Castleford (Yvette Cooper) and the Leader of the Opposition.

I know that many Members in all parts of the House have spent hours battling away on the Bill over the past few weeks, and I am full of admiration for them. I do not remotely pretend that I could compete with their expert knowledge of Europe or the constitution, and I will certainly spend as many hours as I can find poring over the Minister's brief after tonight's performance to see whether I can improve my understanding. Despite all this effort, however, all we have really seen are a few nudges and hints from Ministers to date; there has been no real tangible progress in terms of any substantial change to this Bill. That is the most worrying thing about the whole process. It appeared tonight that the Minister was sent out with a brief designed purely to bat away everything put in his way. That suggests to me that the Government are not interested in taking on board the views of Members of this House.

I am choosing to make a contribution at this stage in the debate because I believe that clause 7 is the nub of the Bill; it is certainly the area about which constituents have contacted me the most. That is because it is where we learn whether Parliament is going to be taking back control, or whether we are on the verge of leaving one big bureaucratic union to which many people in this country object—whatever our views, that is one of the reasons why people object—only to hand over unprecedented powers to Ministers in a Government who do not actually have a majority. More than anything, clause 7 is about parliamentary sovereignty and our rights as parliamentarians to represent the interests of the public, especially where they do not coincide with the interests of the Executive. That is what this is really about.

Amendment 15 addresses the fact that clause 7 attempts to define partially and envisage deficiencies that may arise. The right hon. and learned Member for Beaconsfield is right that it makes much more sense to leave this open and hence it is better to say:

> "A Minister of the Crown may by regulations make such provision as the Minister considers appropriate to prevent, remedy or mitigate…any failure of retained EU law to operate effectively",

and simply leave it there. The attempt to go further with a partial list does not help us.

Amendment 49 deals with a similar concern, but is clearer about the fact that delegated powers should be used only when absolutely necessary. Why should we give increased delegated powers to the Executive when we are not convinced of the necessity for them? It is their job to convince us of their necessity. Our job today is to build protection against the risk of a Minister acting excessively.

Amendment 1 makes it clear that, whatever the arguments about taking back control, no one thought when that phrase was used in the referendum campaign that it meant handing excessive powers to Ministers without proper parliamentary scrutiny; and of course, turning to amendment 32, it would be absurd in parliamentary terms if the very delegated powers that the Minister is given in order to amend defects in his plans are then capable of being used to reconstruct the entire Act. The Minister claims that that will not happen, but I was not massively convinced; it was a long performance—there is no argument about that—but I was not convinced. I have recently read Tim Shipman's book, and I am aware that the Minister has lots of skills and talents, which came to the fore in the lead-up to the referendum. However, I wish I had seen more evidence today of how he goes around convincing colleagues; I did not witness that happening at the Dispatch Box tonight. We have to ask whether we are on a slippery slope. Is this about dismantling parliamentary authority? Is this the start of law-making by Executive fiat and therefore the bypassing of this entire place? If that is the case, that is not what we came here for and it is not what this Bill should be about.

Amendment 5 returns to the fear that existing functions, and therefore rights, could be taken away from the British people in an exercise that is supposed to be about making EU law operable from exit day. That is not the debate that we have been having here, however, and it is not what the Government have been concentrating their energies on. I cannot see how anyone who genuinely believes in parliamentary democracy could be satisfied to see this Bill, and clause 7 in particular, go through unamended. That would be tantamount to our giving up our proper rights and responsibilities.

I know that we will not come to this until another day, but by the same token it would be a total dereliction of duty if we were to make a withdrawal agreement that was not subject to full and proper parliamentary scrutiny and a meaningful vote. Otherwise, what was the referendum for? If all we are going to achieve is a transfer of power from Europe to a bunch of Ministers in a Government without a majority, we will have defeated the whole purpose of the exercise.

John Penrose: I sympathise instinctively with an awful lot of fears and analyses expressed by the hon. Member for Birmingham, Selly Oak (Steve McCabe); I speak as a former constitution Minister. I am the No. 2 signatory on six of the amendments tabled by my right hon. and learned Friend the Member for Beaconsfield (Mr Grieve)—not quite the total number that he has tabled. I was persuaded and inspired to do that because I was equally concerned that, under the guise of taking back control, we were going to fail to take back control—that Parliament would unintentionally but none the less effectively be an end run if we were not careful.

I have been focusing on two areas. The first is the sifting committee. The second is the scope of the ministerial powers to introduce statutory instruments not only under clause 7 but under clauses 8 and 9, which are obviously linked and which will be discussed and voted

on today and tomorrow. For me, and I think for my right hon. and learned Friend the Member for Beaconsfield, the sifting committee has been largely put to bed by the excellent cross-party work of the Procedure Committee, to which I pay tribute.

This might not be to everybody's taste, but because it is a cross-party Committee, because the matter has been carefully debated and thought through, and because this is a significant step in the right direction, I am certainly willing to back the Committee's proposal. My right hon. and learned Friend has put his name to the Committee's amendment: he and I are not minded to press our version, which was based on proposals from the Hansard Society. We are happy not to press that to a vote, and instead to support the proposals from the Procedure Committee.

Incidentally, I must gently and respectfully disagree with the hon. Member for Birmingham, Selly Oak, because I think that the Government's behaviour over the sifting committee amendments shows that they have given ground. They have accepted some amendments—*[Interruption.]* He is suggesting that they have given only a small amount of ground, but I think it could be larger than he is giving them credit for. That is because we would otherwise have faced two big problems.

One problem would have been that it is impossible for the Government to predict at this stage precisely what SIs will be introduced. We all know that there will be a large number of them, and we can probably guess what 95% of them are going to be, but we will not be able to guess 5% of them simply because we do not know what is going to be in the final agreements. There will obviously also be other things that are consequential on that that we will discover much nearer the day. Therefore, having a sifting committee of parliamentarians that can be flexible and make proper, balanced judgments of what is important and what needs a higher level of scrutiny is no small thing.

7 pm

Equally importantly, the sifting committee would allow us to move at pace. If we are going to have 800 to 1,000 SIs, if we all want them to be agreed in time—we all accept that this is going to happen no matter whether we voted remain or leave in the referendum—and if we are to have a statute book that works the day after we leave, we need to be able to get through the process at pace. The sifting committee is therefore an essential method of allowing us to maintain that pace while still being able to vary the level of scrutiny.

Mr Charles Walker: I thank my hon. Friend for his kind words about the excellent work of the Procedure Committee. Does he accept that one of this House's great achievements has been the work of Select Committees and the cross-party consensus that they can find and build?

John Penrose: I absolutely accept that. Another important thing about the sifting committee will be that many of the other bits of Brexit-related legislation that are starting their journey through this House may contain large numbers of statutory instruments—potentially primary legislation-amending statutory instruments. What we agree for this particular Bill may well be an important template for how we treat those similar powers in subsequent pieces of legislation. We are doing important work here and it is crucial that we do it. I also urge my hon. Friend to broaden out the Procedure Committee's approach to look more broadly at SI scrutiny powers after all this is done; many of us would encourage him to do that. However, such an approach is perhaps too wide for this Bill right now.

Sir Oliver Letwin: Before my hon. Friend moves on from sifting, does he agree that it represents substantial progress that we have heard from the Dispatch Box today that the recommendations made by the Procedure Committee will be respected by the Government in their conduct in the House?

John Penrose: Absolutely. Those commitments will be important and consequential, but we also need to ensure that everything gets baked properly into the Standing Orders and that the relevant votes are passed correctly.

Moving on to scope, I think still we have further to travel. A whole slew of amendments—not just the three or four tabled by my right hon. and learned Friend the Member for Beaconsfield that I have put my name to, but those of the right hon. Member for Normanton, Pontefract and Castleford (Yvette Cooper) and others—are trying to address the scope of the powers that Ministers will be given. In fact, Ministers themselves have accepted the principle, saying that they are sympathetic to the idea of trying to limit the scope of the powers. The Minister said that both he and the Secretary of State would like to do that if they could; it seemed to be a question of how, not whether it was desirable in principle.

When I tempted the Minister in an intervention, he also said that the view in the Department is that Ministers want to try to take just enough powers to successfully translate EU laws into British laws and no more. We all accept that there must be no less than the minimum required, but he was clear that Ministers only want to take the minimum. The question is not about the principle of necessity and sufficiency; it is about how that is translated into a legal wording that will allow the principle to be clearly expressed. I gently, but I hope forcefully, say to Ministers that the words in the Bill at the moment do not pass the sniff test for an awful lot of us in the Chamber.

I am extremely pleased, therefore, with the open, positive and constructive way in which Ministers have approached the issue and with the commitment from the Dispatch Box this afternoon to go back and have a further look. I could not tempt the Minister into a firm promise to introduce an amendment, but I think that that is going to be necessary by the time we get to Report if the Bill is to be amended in a way that becomes acceptable and passes the sniff test for most of us here.

The Minister was saying—I paraphrase him—that Ministers accept the principle that the minimum necessary, the necessity test, is the right one in principle, but they cannot find the right words because if they use the word "necessary", and they have multiple necessities, the courts will interpret that in a way that is unhelpful and does not deliver what everyone wants. The problem Ministers have is that the word that they have chosen instead of "necessary" is too broad and brings in all sorts of other possibilities that give a great deal of concern around the House that Ministers will

[John Penrose]

unintentionally but in practice introduce other powers that they have said this afternoon they do not desire, need or want to give themselves in principle.

Sir Oliver Letwin: Is my hon. Friend sure that the source of the problem lies in the term "appropriate"? The more I have listened to the debate this afternoon, the more it has seemed that the problem may come from the word "arising". Perhaps we need words more like "entailed by", which would limit the scope of appropriateness.

John Penrose: What my right hon. Friend has just demonstrated is the point that I was just about to come on to. We are going to need different words—in the plural—than we have at the moment and the discussions that have been promised from the Dispatch Box, even if an amendment has not yet been promised, will be essential to get the issue right. It is not right at the moment.

During the debate this afternoon, three or four options have already been proposed from the Back Benches, by my right hon. and learned Friend the Member for Beaconsfield, by my right hon. Friend the Member for West Dorset (Sir Oliver Letwin) just now and by a couple of others. It is clear that there is no shortage of solutions; it will not be acceptable for Ministers to say, "This problem is too hard so we are going to stick with what we have." There are enough brains in the room for us to get this right—there are certainly enough on the ministerial Benches and among advisers. So it ain't going to be good enough for Ministers to say, "We understand the principle and have already accepted it in our remarks today, but it is all too hard and we can't possibly manage it." That will not fly.

I have discussed this response with my right hon. and learned Friend the Member for Beaconsfield. We are content, based on what we have heard, not to press the amendments on scope that we have tabled here this evening. However, it will be essential before we get to Report to see some creative alternatives that solve the problems that hon. Members on both sides of the House have alluded to. People on both sides of the House can propose lots of possible solutions. We need to find some that work and make sure that Ministers are content to introduce them in the impressively constructive tone with which they have already addressed the issue of the sifting committee. That needs to be done before Report.

Deidre Brock (Edinburgh North and Leith) (SNP): I speak in support of the amendments to clause 7 in the names of my right hon. Friend the Member for Ross, Skye and Lochaber (Ian Blackford) and other hon. Members. As my hon. Friend the Member for Edinburgh East (Tommy Sheppard) has already mentioned, they are amendments 264, 222, 73, 233, 234, 239, 240, 266, 269, 272 and 161. They are important because they go to the heart of the debate on democracy—whether so much power in so many important areas should be exercised by Ministers without substantial oversight by Parliament. I have not been reassured by the Minister's lengthy response.

Particular importance has to attach to protecting the rights of consumers and of workers, and I was disappointed at the Minister's rejection of the amendments we suggested. We have heard some rumblings from Government Back Benchers and fellow travellers that leaving the EU is an opportunity to strip away protections from workers, consumers and the environment, and to cut supposed "red tape" from manufacturers and producers. The hon. Member for Wakefield (Mary Creagh) reminded us of the previous views of the Secretary of State for Environment, Food and Rural Affairs on this. The Foreign Secretary has also been one of these siren voices in the past, and the Brexit Secretary wrote an article during the EU referendum in which he said:

> "The continental response to competition is, rather than trying to compete, to make sure that regulation tilts the playing field in their favour."

He also said that:

> "while the single market may seem like a good idea, in reality it has distorted market incentives, reduced competition and burdened European economies with unnecessary regulations."

So there are people at the very heart of the UK Government who seriously believe that regulations designed to keep us safe and to prevent us from being ripped off, and regulations to ensure that the environment gets a break and that workers get paid and protected properly, are bad things. There are Cabinet Secretaries of the opinion that these things were invented by European bureaucrats as a weapon against UK productivity—that truly is health and safety gone mad.

I mention the current Government members to make it clear that there is a clear and identifiable danger to our continued safety, to the standards we expect in goods and the services we buy, and to the rights that workers enjoy—and it occupies Whitehall today.

As has been said by other Members, the extent of the power aggregation is such that it would leave Ministers, in effect, changing primary legislation by fiat. This is a coup, a very Tory coup, that is seizing power from this place—the power to create and amend legislation—and centralising it in the hands of a few who would have nothing to do with these protections and who would claim that we did well enough without them before.

Sir Hugo Swire (East Devon) (Con): Does the hon. Lady believe that the British electorate were better protected when these powers resided in Brussels, as they indeed still do? Does she think the people making these decisions in Brussels were more accountable than Ministers will be in this House after we leave?

Deidre Brock: This is exactly the point, is it not? Under this form of legislation Ministers will not be as accountable to this House. I am also of the view that environmental legislation, for example, has been well served by the European Parliament, so I have to disagree with the right hon. Gentleman.

Parliamentary scrutiny would be severely limited by the form of statutory instrument being proposed, but the sheer volume of secondary legislation that is likely to be washing through the system will render effective parliamentary scrutiny almost impossible. We need checks and balances inserted into the system to ensure that there is not legislation made in haste for which we all repent at leisure. I welcome the fact that at least a sifting committee has been accepted by the Government, but it does not go far enough. It would be a sensible argument for this secondary legislation, where it is necessary, to be subject to the super-affirmative procedure. I would like to hear from Ministers why that has not been considered

or, if it has, why it has been rejected. Such an approach would not solve the problem, but it would, at least, nod in the direction of solving it.

We also have to recognise that other Administrations have a substantial interest in these decisions, and a degree of co-operation and respect is required. Therefore, "taking back control" has to have an element of that good, old-fashioned, EU principle of subsidiarity. Decisions that have large impacts on the devolved Administrations should be co-decisions. That is why the Joint Ministerial Committee should be involved in making them; it is why there should be proper consultation across the Administrations before changes are made to social security provisions; and it is why there should be consent from the Welsh and Scottish Administrations for any changes to the law that affect provisions within devolved competences.

We have heard the opinions of parliamentary Committees and of outside bodies. I know that experts are not viewed particularly favourably on the Government Benches, but they do have an important role to play, and many experts, including the Law Society of Scotland and the Equality and Human Rights Commission, have expressed serious concerns. Those concerns should be heeded in this place and heard by Ministers. It is clear that the furious Brexiteers who drove on when sensible voices were urging caution have ignored this advice:

"Heat not a furnace for your foe so hot

That it do singe yourself."

7.15 pm

Nicky Morgan (Loughborough) (Con): I rise to speak to new clauses 53 and 77 and to amendments 385, 1, 2, 3, 5, 48 and 49. In view of all the speeches we have heard so far and the long speech from the Minister, I hope to deal with these matters quite briefly because many of the issues have already been discussed and, in some ways, addressed from the Dispatch Box.

Today, we are debating the rectifying of deficiencies that would result from bringing EU law into UK law. As my right hon. Friend the Member for Broxtowe (Anna Soubry) said, whatever we might think about the process of leaving the European Union, it is happening and we need to bring EU law into UK law if our withdrawal is to work successfully. I have always said that Brexit is good news for lawyers, and I say that with respect to my former profession.

New clause 53 was spoken to so impressively by my hon. Friend the Member for East Worthing and Shoreham (Tim Loughton), and through it he seeks to address the potential loss of family reunion aspects of the Dublin III regulation and to propose alterations to the UK's system by taking the key definition of "family" from the Dublin III convention and applying it to the UK's refugee family reunion rules. Earlier this year, as my hon. Friend said, we went to Greece as guests of UNICEF to visit and talk to those who had travelled and were seeking refuge and looking to join family members in other parts of Europe. It was a moving and rather depressing but also ultimately inspirational visit that showed the power of the human spirit, particularly in younger people in search of a better life.

Parents and families often send their young people off to look for a better life here in Europe. Many of the young people we saw had made the dangerous journey to access family reunion under the Dublin III rules. As my hon. Friend the Member for East Worthing and Shoreham said, Dublin III allows children to join their extended family once they reach Europe. Under the regulation, the definition of extended family includes uncles, aunts, grandparents and older siblings. If, after Brexit, children fleeing war and persecution will be able to rely only on the UK's immigration rules, they will have a right to be reunited only with their parents, as the existing UK immigration rules provide only for the right of parents with refugee status or humanitarian protection to sponsor their under 18-year-old dependent children to join them in the UK. The UK rules do not provide the same right to other family members.

We have to recognise that in many of these circumstances, it is because a young person's parents have perhaps been killed or are unable to look after them that wider family members might offer protection and the chance of a new life. Ministers were clear, right from the White Paper onward to the way the Bill was presented on Second Reading, and in speeches on this subject, that no rights would be changed or policy changes made in the Bill. It is about making sure that EU law that is brought back to the UK works and that deficiencies are corrected if necessary.

Sir Oliver Letwin: Did my right hon. Friend share my puzzlement at the answer that the Minister gave to that point at the Dispatch Box? It seemed an argument was being made that Dublin III requires co-operation that would be impossible to guarantee. As I understood it, my hon. Friend the Member for East Worthing and Shoreham (Tim Loughton) and my right hon. Friend herself are both recommending a change in our immigration law to ensure that we parallel the situation that currently obtains under Dublin III.

Nicky Morgan: My right hon. Friend puts it extremely well. I was going to say that the Under-Secretary of State for Exiting the European Union, my hon. Friend the Member for Wycombe (Mr Baker), was one of the most ardent campaigners for the UK to leave the European Union, presumably—I think I have heard him and others say this—on the basis that the UK would then be able to do what was right for us and what we judged to be in the national interest and the right thing to do for our place in the world, so there was irony in his saying that we would not be able to do that because of restrictions and because it would not be allowed under the rules. That seemed to drive a coach and horses through what has been sold to me sometimes as the benefits of Brexit. I might remain unconcerned, but on this, I think that there might well be an opportunity for us to improve the current situation. I hope very much that the UK Government will take up such an opportunity.

If leaving the European Union gives us a chance to provide more clarity to our immigration rules, it has to be a good thing. From what the Minister said, I understand that there may be another piece of legislation, namely the forthcoming immigration Bill, that might be more suitable for tackling the issue. As my hon. Friend the Member for East Worthing and Shoreham said, we have spoken to the Minister for Immigration. I hope that we can take advantage of this opportunity to look again at the rules to clarify the fact that we want to mirror the Dublin III rules as we go forward. Ministers can be assured that, if this is not picked up when we get

[Nicky Morgan]

to that immigration Bill, my hon. Friend and I will be tabling a similar amendment in order to probe further and to hold the Government to account.

It is important that the United Kingdom remains committed to helping the most vulnerable both here and abroad. Surely that must be partly what a global Britain—by which I mean Britain taking its place on the world stage and making a difference—has to be about. This is the sort of amendment that says much about our values as a Government, as a party and also as a country. We do not want to make it even harder for young people to come to this country to build a new life and to make the most of themselves. I view this issue through the inspirational work of the Baca charity in my constituency.

Let me turn now to new clause 77 and amendment 385, which were spoken to so well by the hon. Member for Birmingham, Yardley (Jess Phillips). She knows a lot about these sorts of issues so I will keep my remarks very brief. Again the point is that the protections for those at risk of violence or worse must surely be maintained as we leave the European Union. I cannot honestly believe that any Member in this House would want Brexit to stop the current protections for those at such risk.

The hon. Lady's amendment picks up on the European protection orders that allow a person who is protected against a perpetrator in a member state to retain that protection when they travel or move within the European Union. I heard what the Under-Secretary said at the Dispatch Box. I take the point that this is a detailed amendment and that, perhaps, it is better dealt with by the relevant Ministers from the relevant Department—the Home Office. I think that the Minister, who is back in the Chamber, did agree that this point would be, and should be, on the negotiation agenda. The desire for UK courts to continue to recognise European protection orders after exit date must surely be right, and I will support the hon. Lady in her amendment. There are a number of other Members—I cannot remember the exact number—who have signed this amendment to make sure that these issues are on the negotiation agenda. When talking about leaving the European Union, it is very easy to boil it all down to trade, to numbers and to statistics, but there are people whose lives will be affected, as we have also seen with EU citizens living here and UK citizens living abroad.

Finally, the Prime Minister has been committed throughout her political career to ending human trafficking, fighting female genital mutilation and having a strong strategy to fight violence against women and girls. She has been very clear on this, so I cannot believe that she would not want these protections to be upheld after the exit date.

Finally, let me turn to the Henry VIII powers and the amendments laid by the right hon. Member for Normanton, Pontefract and Castleford (Yvette Cooper) who was particularly concerned about the concentration of powers in the hands of Ministers. I think she is right. I am a former lawyer, and one of the legal tendencies is continually to try to draft against what can go wrong when a client is about to embark on something—whether they have been advised to do it or not to do it. A lawyer's task then is to try to find them protections. Although we can have confidence in current Ministers with regard to the powers that they might want to exercise, we never know what might happen in the future. If this Parliament does not ask why Ministers want all these powers and what they are going to do with them, the next generation of MPs, and the ones after that, will want to know why; they will want to know why we did not seek to apply some limitations on the exercise of those powers.

I am pleased that the Government have listened to the concerns about Henry VIII powers and are going to accept the amendments tabled by the Chair of the Procedure Committee, my hon. Friend the Member for Broxbourne (Mr Walker). He has secured an important concession—that Ministers will keep Members of Parliament informed of the forthcoming statutory instruments. I hope that Ministers will take that on board. Parliament must be involved in scrutinising powers that are exercised by the Executive. It is a fundamental tenet of this country's unwritten constitution. I have set out two examples: the protection of the rights of vulnerable children and of those at risk of violence or worse. We should be asking how the statutory instruments needed to bring those laws back from Europe will be exercised and drafted, and we should be checking it all.

Sir Oliver Letwin: Does my right hon. Friend agree that the proposed changes to the standing orders are particularly welcome in that they provide specifically for the new committee, as I understand it—I am looking for approval from the Chair of the Procedure Committee—to use the Select Committees that deal with each Department to look in detail at the departmental statutory instruments, so we will have real expertise available?

Nicky Morgan: That is an excellent point and a very good idea. There has always been a wider call for the Treasury Committee, which I am privileged to chair, to look more broadly at finance legislation.

The Minister had a difficult job this afternoon. There were a lot of amendments for him to deal with, many of which were very detailed and some of which were clearly not within his departmental remit. This proves the point that we do need Members of Parliament who have an expertise in their background, sit on a Select Committee or have held a particular ministerial brief. This is the time for them to offer their expertise to the House and the country in order to ensure that we get the law that we are bringing back from the EU correct.

Mr Charles Walker: My right hon. Friend is making an excellent speech. Does she agree that although time is short and there is a great deal of urgency to get this done, it seems that the House is up for it, and that we will find the time and the sense of vim and vigour to really exercise our scrutiny function?

Nicky Morgan: I absolutely agree with my hon. Friend. I hope that those listening get the impression that, whatever our views about the wisdom or otherwise of leaving the European Union, the fact is that the decision has been made. We need to make it work in order to set things up for the next generation of people in this country and for the next generation of Members of Parliament, who at some point we will hand the batons on to in our constituencies. If we are to do that, we have

to ensure that the legal system we put in place works, the details are right and adequate scrutiny has been given.

The appetite of Members to debate this Bill—I am sure that this will happen on other consequential Bills needed to implement our withdrawal from the EU—shows that we are prepared to put in the hours and want to help. It also helps to build a consensus in this House. I hope that that will show the country a leadership that is about Members of Parliament taking responsibility for getting it right for the country and acting in the national interest. On this critical issue of EU withdrawal, which will affect the country for decades to come, we must absolutely show that leadership as a House.

My hon. Friend the Member for Bromley and Chislehurst (Robert Neill) talked about Parliament being here to improve legislation. Amendments should not be an affront to the Government. They will obviously disagree with some. They might agree with the principle of others, but would want to reword them in a way that finds approval with the parliamentary draftsmen. There will also be some that they will initially want to resist, but if they test the will of the House, they will find that Members want to make those amendments. In fact, such amendments may very well improve legislation and help with parliamentary handling. As the Minister said, we are dealing with 40 years of law and there are hundreds of issues, but there is an opportunity to do things in the UK's way.

I am very persuaded by amendment 49, which talks about the limitation of powers and having no concentration of powers. There are perhaps improvements that can be made to it, and the amendment the Government have said they will accept on the work of the new sifting committee is very welcome. However, the amendment sends an important signal about the way the constitution in this country works, and for that reason, if the right hon. Member for Normanton, Pontefract and Castleford presses it, I will support it this evening.

7.30 pm

Angela Smith: I am grateful for the opportunity to speak in this important debate. It is a real privilege to follow the right hon. Member for Loughborough (Nicky Morgan). I rise to speak primarily to new clause 18 and to new clauses 24 and 27 and amendment 124. I will also speak more broadly to a range of amendments that have been selected for today's debate.

Clause 7, which today's proceedings are primarily concerned with, stands as a significant extension of the powers available to Ministers of the Crown. The speech by the hon. Member for Weston-super-Mare (John Penrose) went to the heart of the debate we have had today in relation to what he called the principle of necessity. His test for whether clause 7 stands worthy to pass through to the next stage of the legislative process is, "Does it meet the principle of necessity or go beyond the test necessary to meet the principle of necessity?" I would suggest that, as it stands, the clause does not meet that test.

The right hon. Member for Loughborough made a point that my hon. Friend the Member for Nottingham East (Mr Leslie) made at the beginning of today's proceedings: one of the key questions relating to that test is whether Members of Parliament in the future will look back at what we do today and over the next few months and determine that we gave Ministers too much power in this Bill. For me, that is one of the real questions at the heart of the principle the hon. Member for Weston-super-Mare outlined earlier.

As it stands, the only pieces of legislation safeguarded in the clause are the Human Rights Act 1998 and some aspects of the Northern Ireland Act 1998. As has been pointed out many times this afternoon, not even the Bill is safe from the hands of Ministers once enacted. As drafted, the Bill will give Ministers flexibility way above and beyond what is necessary, allowing them to create or amend any legislation on the UK statute book to mitigate any failure or deficiency in retained EU law.

I am not convinced that my constituents—even those who voted to leave the European Union—possess the sort of blind faith the Government seem to be asking for, and I certainly do not have that blind faith at the moment. Indeed, a number of parliamentarians on both sides of the Chamber clearly have significant reservations. Further, of course, I am not persuaded that such sweeping powers are necessary.

I understand that the time constraints associated with the article 50 process and the volume of legislative amendments required to implement Brexit put pressures on the Government—I totally acknowledge that. I also understand that putting all the corrections into the Bill at this stage would be entirely impractical and that the Government do require flexibility to respond to all eventualities as negotiations with the European Union take place. In that sense, the spirit of the debate today has been very helpful, and the Government have to concede that most of the contributions have been made with the intention of improving the Bill and ensuring that it works in protecting the legislation we want to transpose into UK law.

Even so, as I have said already, the powers the Bill asks for are too broadly defined and risk undermining the sovereignty of Parliament. There is a balance to be struck between giving the Government the necessary tools to implement Brexit and not forgoing parliamentary scrutiny. What the Bill proposes does not strike that balance, which is why I support new clause 24 in the name of my hon. Friend the Member for Bristol East (Kerry McCarthy), which stands as a really serious attempt to define properly the principle of necessity.

Just last year, the Brexit Secretary told the Commons Select Committee that he did not foresee any major or material changes being made by delegated legislation. If that is not necessary, what possible justification can he have for including such sweeping powers in the Bill?

In its recent report, the Lords Constitution Committee outlined a number of requirements of Bills granting Henry VIII powers. In essence, it recommended that the breadth of any powers given should be as narrow as possible, which is clearly not so in this case. This point is furthered by the Supreme Court justice, Lord Neuberger, who says that

> "the more general the words used by Parliament to delegate a power, the more likely it is that an exercise within the literal meaning of the words will nevertheless be outside the legislature's contemplation."

In other words, the broader the powers given, the more likely that, if exercised, litigation will follow. That point was made very powerfully by the right hon. and learned Member for Beaconsfield (Mr Grieve), and the Government do need to respond to it.

[Angela Smith]

In their March 2017 White Paper, the Government said that their proposed procedures represented

"the beginning of a discussion between Government and Parliament as to the most pragmatic and effective approach to take in this area."

I am afraid that so far, despite the concessions made, we have not got there. There are issues relating to the scope of the Bill that have been very clearly articulated today. Amendment 392, accepted by the Government, represents progress, but it does not go far enough because it deals only with part of the problem.

Triage is fine, but at the end of the day the scrutiny process does not allow Parliament to amend or send back a statutory instrument for further consideration by the Government. That is a real weakness in the scrutiny system that must be addressed, as the right hon. and learned Member for Beaconsfield said. That is why I support new clause 18, which gives Parliament the chance to look properly and in depth at what is needed to ensure that Parliament has proper powers of scrutiny over the delegated legislation process in relation to this Bill. The Hansard Society report gives us a really good start in that process. The Government have no need to be alarmed about new clause 18. This can be done reasonably quickly, and Parliament has the right to expect it.

The hon. Member for Brighton, Pavilion (Caroline Lucas) is not here to speak to her new clause 27, which is a shame, because the environment is at the very heart of the Brexit process, yet so far it has been fairly peripheral to the debate. If we are going to get Brexit right, the Government need to understand that environmental standards are the one thing that matters to every citizen in this country. Everybody who voted in the referendum, whether leave or remain, will expect the Government to maintain environmental standards at least to the level where they are now.

James Heappey: The hon. Lady says that the environment has been peripheral to the debate so far. I am sure that she will have seen the comments from the chief executive of Greener UK and the enthusiasm of that organisation regarding the debate that we had in this Chamber one evening two weeks ago when we spent four hours debating the environmental parts of the Bill.

Angela Smith: The test of whether the Government are committed to maintaining environmental standards—and indeed to improving them, as the Secretary of State continually tells us—will be whether their approach to our future outside the European Union allows those environmental standards to be maintained. If we fall back on World Trade Organisation rules, it will be extremely difficult for this country to maintain environmental standards at the level we enjoy now.

The Environment, Food and Rural Affairs Committee is currently looking at this issue. People in every single aspect of the agricultural sector—whether beef, lamb, poultry, pork, cereals or grain—have said that if we fall back on WTO rules, environmental standards may have to fall because we will lose our competitive edge and we will not be able to compete within that scenario. Environmental standards are not being taken seriously enough by the Government.

It is all very well for the Secretary of State to make populist claims about what he wants to achieve—when, indeed, what he was claiming he had already achieved has not been delivered—but he has to put his money where his mouth is. He cannot be a hard Brexiteer and a champion for environmental standards. The two are completely contradictory. *[Interruption.]* The hon. Member for North East Hampshire (Mr Jayawardena) can shake his head, but every sector in the economy is making this point.

The chemicals industry wants to stay within REACH, as does the water industry. Every major industry in this country likes the environmental standards that we enjoy now and wants to maintain them but worries about the impact on our environmental standards of not having a deal and not staying in the single market. It is all very well to live in a wonderful cloud cuckoo land and think that we will continue to enjoy in future everything that we have got now and that we will be able to do trade deals across the world, while ignoring the reality that we live next door to the European mainland. I do not know whether the hon. Gentleman thinks we can deliver that, but those on his side of the argument have so far failed to tell us how we will do so.

Wera Hobhouse: Does the hon. Lady agree that the European Union has been a force for good for the environment? Through the European Union, this country has done things that it would never have done on its own.

Angela Smith: Environmental standards have improved in this country because the European Union—particularly the single market—has employed the concept of the level playing field. We have been able to maintain high environmental standards because we are competing at the same level as every other member state and the majority of our trade is with the European Union. One can only think about what will happen if our doors are opened, in an unregulated environment, to imports of American beef, American cereal and all the rest of it. What guarantee can those on the leave side of the argument give us that we will be able to protect ourselves with environmental legislation in that context?

Vicky Ford: I agree with the hon. Lady that a great deal of European legislation on the environment has been a force for good, but I warn her against scare-mongering, because much of that great European environmental legislation was led by British influence. British MEPs led the habitats directive, the birds directive and much else. The Government have said that they are committed to keeping high standards and not introducing hormone beef, chlorinated chicken and so on.

Angela Smith: I thank the hon. Lady for her intervention, but she clearly was not listening to what I said. Of course the UK has led on many of those improvements, but why were they secured? Because we are in the single market, which is the reason why the standards work and have become embedded in the European Union. The single market helps us to maintain the level playing field that is necessary if we are to compete effectively in it, and leaving it will endanger the maintenance of those standards. If we fall back on WTO rules, certain standards cannot be properly assessed when a country makes its mind up about what it can and cannot import.

We have to be careful about assuming that we have been some kind of marvellous leader in environmental standards in the European Union. Yes, we have, but the mechanism that has made that possible is the single market. As was pointed out earlier, a Conservative Government helped to put together the architecture for the single market, because they understood the importance of that mechanism for delivering the standards that we all enjoy.

If any Member wants to put all that in danger, all I ask is that they think carefully about doing so, because the consequences could be really rather severe. That is why I will be supporting amendment 124. At the end of the day, it is really important that, as the Prime Minister has pointed out and as I said in my earlier intervention, nothing is agreed until everything is agreed. On that basis, nothing in the Bill should preclude the possibility of the UK staying in the single market and the customs union. That is really important, and Parliament needs to take that point seriously.

7.45 pm

I finish with a plea to every member of the Committee. I will be voting for amendment 124 tonight, and every Member has to take account of the national interest on this principle. In my view, tribalism and falling back on the party line is no longer good enough. The decisions facing this country and its long-term interests and prosperity really do demand something better. Now is the time to make one's mark, and if any Member considers staying in the single market to be the right way forward, they should make that clear by making such a case and voting for amendment 124 tonight.

Mr Ranil Jayawardena (North East Hampshire) (Con): It is always a pleasure to follow the hon. Member for Penistone and Stocksbridge (Angela Smith), for whom I have a great amount of time. I shall not continue the debate about the environment on this occasion, but I welcome her consideration of points of scrutiny. I have, however, come to a slightly different conclusion, as I will outline in a moment.

It is a pleasure to speak to the amendments tabled by my hon. Friend the Member for Broxbourne (Mr Walker), which are also in my name and those of other Members. In particular, I am delighted that the Government have accepted amendments 393 and 397. I believe that this demonstrates consensus, and I want to focus on consensus this evening. These amendments have been tabled by Procedure Committee members from both sides of the House and, indeed, from both sides of the Brexit debate. They genuinely benefit from a consensus of support precisely because they do not seek to replay the many arguments of the referendum or undo the will of the British people as expressed in it. We recognise that the UK has voted to leave, and the amendments come up with a way of helping to make that happen.

One reason why that is important, particularly in the context of scrutiny, is that the referendum day poll of about 12,000 voters, commissioned by the noble Lord Ashcroft, showed that the biggest single reason for voting leave—it was given by over half of leave voters—was to take back control of, among other things, the laws and decisions of the United Kingdom. The amendments tabled by the Chairman of the Procedure Committee do just that: they focus on sovereignty, give Parliament control and ensure scrutiny of our laws.

As my right hon. Friend the Member for Broxtowe (Anna Soubry) said, it is important to recognise that amendments, whether these or others, are not necessarily seeking to reopen the Brexit debate. These amendments certainly do not do so; otherwise, I would not be supporting them. Instead, it is important to consider how to provide scrutiny of the laws that will be in place once we leave the European Union, which is what people have voted for.

In this instance and in that context, I am content with the Government's proposed usage of the so-called Henry VIII powers in the Bill. The Leader of the House and the Under-Secretary of State for Exiting the European Union, my hon. Friend the Member for Wycombe (Mr Baker), were very frank and reassuring when they appeared before the Procedure Committee, as did the shadow Leader of the House, in what I thought was a good-spirited discussion of the substantive issues at stake.

I will come on to the scale of the challenge ahead in a moment, but I just want to say that, for a number of reasons, I am not particularly worried—strangely, some Labour Members have said they would be—about what would happen if the Labour party were ever in government again. The first is that the powers are mostly limited in nature. I do not want Labour Members to come back into government, for reasons that will be obvious, but I am not worried because the Government have clearly set out what the secondary legislation is and is not intended to do.

The Bill enables Ministers to create the necessary correcting instruments to prevent, remedy or mitigate any failure of or deficiency in retained EU law, but, as the excellent and independent House of Commons Library briefing sets out, "express legal limitations" are imposed on the secondary legislation. The secondary legislation cannot be created to impose or increase taxation, to create new criminal offences or, as the Minister said earlier, to amend human rights legislation. This is a well controlled piece of legislation designed to deal with the challenge of leaving the European Union in a way that allows parliamentary scrutiny while ensuring that the Government can get a smooth and orderly Brexit through this place.

Primary legislation will be needed on a number of key issues over which Parliament will become sovereign when we leave the European Union, such as a customs Bill, a trade Bill, an immigration Bill, a fisheries Bill, an agriculture Bill, a nuclear safeguards Bill, an international sanctions Bill—I am sure there are many more in the minds of Ministers—but there is only a short space of time. Given the sheer volume of retained EU law, there is no alternative to the Henry VIII powers for dealing with any deficiencies. The delegated powers under clause 7 are essential in that light.

The alternative would be legal chaos. With over 20,000 EU laws, having an individual parliamentary vote on each would take over 200 days of parliamentary time—sitting 24 hours a day, seven days a week. To be rid of that chaos, which I hope Opposition Members seek to rid our country of, and to provide the certainty that I am sure businesses in their constituencies and mine want to see, and indeed as witnesses to the Procedure Committee have pointed out, with this volume of delegated legislation being made in such a short space of time, any additional scrutiny by Parliament will provide further

[Mr Ranil Jayawardena]

legal certainty to the courts and confirm that any law is the will of a sovereign Parliament, but it must be done in a way that allows the Government to get on and do it.

That brings me to a potential concern, which I hope Members agree has been satisfactorily addressed. As the Government have been at pains to make clear many times, the main purpose of the Bill is twofold: first, to respect the referendum result; and secondly, to ensure that our country has a functioning statute book on leaving the European Union. I was therefore pleased to see the inclusion of condition 3 in amendments 393 and 397, which makes it clear that if no recommendation as to whether regulations should be subject to the negative or affirmative procedure has been made by a committee of the House, then after 10 sitting days they can proceed by the negative procedure.

I hope that no committee would seek to play such games on this issue, such is the significance of leaving the European Union, but this critical condition will prevent any committee that was so minded from frustrating the progress of a statutory instrument in order, by extension, to frustrate the will of the British people to leave the European Union positively and constructively. It will stop that happening, enabling scrutiny without sabotage.

Let me affirm again that I am very pleased that these amendments have secured consensus across the parties. While the United Kingdom is leaving the European Union—that is not up for debate—this, I believe, will help to ensure that there is parliamentary scrutiny of the laws that need to be in place once we leave, but without stepping on the Government's legislative toes or tying their hands in the negotiations with the European Union. That is ever more important as we progress to the stage 2 negotiations on trade and other matters. That relates to amendment 124.

I firmly believe that trade is our kingdom's path to prosperity, and our generation's chance to widen consumer choice, reduce the cost of living, improve quality of life and give those with the tightest purse strings a hand up. This we seek to do while maintaining the greatest possible access to, but not membership of, the single market. Leaving the European Union is not just about economics and markets, though; it is about the political and constitutional view of the British people. It was a vote to take back control of our laws as well as our borders, trade policy and money. These amendments enshrine that control.

I understand that the Government have accepted these amendments, and I hope that they will have continued support across the House, and indeed that the committee, once it is set up, will have the support of Members across the Brexit divide, ensuring that it can conduct its work in an effective and well respected manner.

Kerry McCarthy (Bristol East) (Lab): It is a pleasure to see you in the Chair, Mr Hanson.

I rise to speak to support new clause 24 and amendment 96, in my name, as well as amendment 104, also in my name, which relates to new clause 27 and others on institutional arrangements. I do not know whether the hon. Member for Brighton, Pavilion (Caroline Lucas) intends to return to the Chamber to press new clause 27 to a Division, but it is an important clause about governance arrangements and I hope she does.

It is welcome that the Government have accepted the Procedure Committee's amendments. There was much concern about the sweeping powers set out in clauses 7, 8 and 9, which, as many Members have said, would give Ministers excessively wide powers to make secondary legislation. There has been near universal recognition that we need to strengthen sifting and scrutiny powers, and there is huge scepticism about the process under schedule 7 for sifting through the 800-plus statutory instruments. There is a suspicion—I believe it to be justified—that it was to avoid much needed parliamentary scrutiny and that it could be used to weaken EU laws in the process of transposition.

I understand what the hon. Member for North East Hampshire (Mr Jayawardena) said, which is that there simply is not the time to work through them one by one, but that is why some of us voted against triggering article 50 when the Government chose to rush into it. We knew that this was an incredibly complex procedure and that it would not be easy in the way that some Conservative Members said it would be. We needed the time to do this properly. The reason we cannot do it properly is because we triggered article 50 too early.

Mr Jayawardena: Does the hon. Lady not accept that the European Union was very clear that until we triggered article 50 we could not begin any of the discussions to allow us to consider any of these matters?

Kerry McCarthy: In the previous Parliament, I was a member of two Select Committees. I was on the recent chemicals inquiry. It is not just that Ministers have not got their heads around it and do not know where they want to go in terms of chemicals regulation, it is that they have not even had discussions with stakeholders. They have not even explored the issues. They are coming to it almost with a blank sheet of paper way after the referendum vote was held. A lot of these discussions should have taken place before we even had the referendum, so we could know what we were letting people in for.

I welcome the Procedure Committee's amendments, but they do not provide for enhanced scrutiny as such. They simply provide a mechanism for a committee to recommend that statutory instruments introduced under the Bill should be treated under the affirmative procedure rather than the negative procedure. The committee sits, but it does not scrutinise. Members may request a debate and a vote, but they cannot require a vote to take place. The White Paper said that MPs could require a debate, but that is simply not correct. The Hansard Society described that inaccuracy in the White Paper as ignorance at best, deception at worst. Members who have been in the House for some time will know that for an affirmative resolution to be objected to and end up in a proper debate is very rare. The tactic is used very infrequently. I believe we need a model that allows for enhanced scrutiny. It should include options such as: requiring a Minister to provide further evidence and explanation for the statutory instrument; requiring a debate and vote on the Floor of the House; allowing a committee to be able to recommend amendments to a statutory instrument, which many Members have mentioned; and public consultation. My hon. Friend

the Member for Wakefield (Mary Creagh) talked about alerting Members to what is being brought forward before the House as a statutory instrument, because it is all too true that so many of them just pass unnoticed and we do not know what we are legislating on.

Enhanced scrutiny alone is not enough. The power to make corrections in clause 7 is still too broad, too general and too vague. It needs to be improved and clarified. The Bill must also put stronger substantive limitations on the powers in the Bill itself, including a general limit, as in new clause 24, and specific limits to safeguard environmental standards, such as in amendment 96. It is only by carefully restricting the Government's powers and effectively scrutinising their use can we prevent powers in the Bill from being used in ways that weaken environmental protections or threaten to roll back 40 years of environmental gains. The hon. Member for Wells (James Heappey) said that Greener UK praised the earlier debate on the environment. I think it was praise for the amendments tabled and the discussion rather than the end result, because the Government did not accept any of the amendments, but we will continue to push on those issues.

8 pm

It is also essential to reduce the huge scope for error in this process and to ensure that, as is its stated purpose, the Bill achieves a workable framework of law seamlessly transposed from existing EU law. I accept that a method is needed to allow us to bring forward technical regulations to implement the legislative consequences of leaving the EU, and we need to be able to do that flexibly and speedily. It makes sense that a significant proportion of the modifications are made by statutory instrument, given their technical nature and the limited time available before exit day. Earlier, the Minister described such modifications as "often" of a technical nature, and the "often" is where difficulty arises. If they were just technical changes, we would all be fairly comfortable with the process suggested. It is the fact that they are not all of a technical nature that gives us grounds for concern.

It is crucial that any powers to modify laws given to Ministers by the withdrawal Bill are restricted. They must only be used to ensure that retained EU law continues to operate with equivalent scope, purpose and effect. The purpose of my new clause 24 is to ensure that the powers to create secondary legislation given to Ministers by the Bill can be used only in the pursuit of the overall statutory purpose, namely to allow retained EU law to continue to operate effectively after exit day.

New clause 24 is slightly different from some of the other amendments that address the same democratic deficit in the Bill, in that its schedules must and may only be used, insofar as is necessary, to ensure that retained EU law continues to operate with equivalent scope, purpose and effect following the United Kingdom's exit from the EU. The fact that it must be used places a positive obligation and makes sure there are no gaps.

My hon. Friend the Member for Wakefield talked about the concern that the explanatory notes refer to removing the requirement to obtain a legal opinion. Obviously, we would not look to obtain an opinion from the European Commission on a given issue, but the fact that it allows that requirement to be removed completely was covered comprehensively by my hon. Friend. I just want to flag up that I agree with her comments.

I spoke about requirements during earlier stages of the Bill, and although they might look dry they are a crucial stepping stone in ensuring that the Government are complying with environmental standards. If there is not that reporting, monitoring and assessment, how do we know how the Government are faring? To give what might seem like a fairly obscure example, article 10 of the birds directive requires member states to send the European Commission reports of how we are doing, but it was never fully transposed or implemented by the UK Government in relation to the marine environment. Basically, seabirds are not covered, and unless we implement new clause 24, that will be lost.

Obviously, article 10 is not the be-all and end-all, but it is an example of where reporting is important. The approach to seabird data collection has been very patchy and since 2006, when the European seabirds at sea programme ended, there has been no state-co-ordinated or state-funded programme for systematic survey and monitoring at sea. Most of the surveys are carried out by developers looking at proposals for oil, gas and windfarms. They come at it with a certain mindset and objective, yet that is the only data we have on the aggregation of seabirds at sea. Those surveys are not designed to identify areas for site designation or to monitor change. As I said, it is non-systematic and patchy.

It is important that we implement article 10 of the birds directive in full, but my point today is about the reporting requirements. If they disappear, where does that leave us? The White Paper's description of technical amendments used reporting requirements as an example and the impact assessment used reduced reporting as an example. That gives me cause for concern that the Government will use a statutory instrument to chuck out this requirement. At the moment, the Government are required to report to the Commission every five years. Will that be replaced with no reporting requirement at all?

The Government's environmental reporting obligations must be put on a domestic footing, and my new clause places a positive requirement that delegated legislation under the Bill is used to ensure that EU law continues to operate with the same scope, purpose and effect. My amendment 96 would specifically prevent the powers from being used to weaken environmental standards.

Finally, I want briefly to speak on amendment 104, which relates to new clause 27. I see that the hon. Member for Brighton, Pavilion is here. I hope that she has a chance to move her new clause at the end of the debate. The Secretary of State's promise of a new independent statutory environmental protection body and a public consultation early next year is welcome, but we need much firmer reassurances, and I believe that they should be written into the Bill. Amendment 104 would provide for any new public authority established under secondary legislation to be temporary. It would be wildly inappropriate for the new body to be implemented via the secondary legislation powers conferred by the Bill. The enforcement body must be established by primary legislation.

The promise of a consultation early in the new year is welcome, but we need the Government to commit to a firm timetable for that consultation, and it should be

published as quickly as possible, while there is still time for us to consider its implications for the withdrawal Bill. We cannot go through Report without knowing what the Government have in mind. Obviously, a Bill would be needed to establish the new body before March 2019. This is vital if we are to avoid a governance gap.

In conclusion, it is important that we enshrine more ambitious environmental protections in law. It is easy for the Government to be self-congratulatory. I can give examples of where successive UK Governments have been very good in pushing for progress at EU level, but I can also give many examples of where they have perhaps been a brake on progress, so it is important that we enshrine them in law. A green Brexit should mean going further than existing levels of protection, and the Government should commit to setting out plans for a new ambitious environment Bill. When I spoke on an earlier day in Committee, the Environment Secretary sat down on the Front Bench just as his Back-Bench colleagues were telling the Committee that he was committed to bringing forward such an environmental protection Bill. I am not entirely sure he knew what he was nodding at, but he nodded to say yes. It is important that we get some clarity from him soon.

Several hon. Members *rose—*

The Temporary Chair (David Hanson): Order. Before I call the next speaker, I remind hon. Members that we are just over an hour away from the knife, and I still have 11 hon. Members seeking to catch my eye. Time will have to be very limited if all hon. Members are to get in.

James Heappey: It is a pleasure to serve under your chairmanship, Mr Hanson. I wish to speak about the many amendments that concern environmental regulation, specifically new clause 27, amendment 104 and new clauses 62 and 63. Like many other speakers, I have received some excellent briefing material from Greener UK, which encapsulates the ambitions of many in the non-governmental organisation community, and I would like to thank it for the enthusiasm with which it has engaged with colleagues on both sides of the House. It has made an excellent effort in seeking to make very clear what it expects. It is clear also that there is a consensus about what we are trying to achieve. There is just a slight disagreement about how exactly to legislate for it.

I hope that hon. Members on both sides of the House, irrespective of what they think should be done to the withdrawal Bill, would congratulate the Environment Secretary on the excellent commitments he has made in recent weeks. They have shown very clearly that the ambition for environmental regulation after Brexit is not merely to maintain the status quo, but to take UK environmental regulation further. That is great news.

We also want the environmental principles enshrined in UK law. We debated that point at length the other week, and there was some satisfaction that that was indeed the Environment Secretary's intent for the Bill he will bring forward. I agree with my near neighbour, the hon. Member for Bristol East (Kerry McCarthy), that it was a shame that *Hansard* could not record his nodding during the speech of my right hon. Friend the Member for West Dorset (Sir Oliver Letwin), but there is no doubt that those of us in the Chamber clearly saw his acquiescence to the requests being made.

Kerry McCarthy: I think *Hansard* did record that the Environment Secretary nodded his assent, but I am not entirely sure that he knew what he was nodding his assent to.

James Heappey: For those of us with an environmental mindset, there is a temptation—and I may say more about this later—to think that it is almost too good to be true that the Environment Secretary should sit there and, quite unequivocally, nod to all those requests. People are not quite willing to accept that it is true, but I am not sure that the things that my right hon. Friend has been saying about environmental matters in recent weeks should do anything to discourage us from believing that it is. He really has been setting the pace.

The non-governmental organisations have raised a number of matters. I agree with what they are saying, but I also believe that what we are already doing in the Bill and—much more importantly—our commitments beyond it will meet their expectations. Their concern about the governance gap is entirely justified. There needs to be a new body to reinforce the regulatory standards that we establish.

Significant powers relating to our environment are being vacated by the EU, and we must, as a matter of urgency, ensure that those powers are allocated to either existing or new regulatory bodies. Those bodies must be independent, they must be accountable, they must be accessible to the public who are seeking redress, their processes must be transparent, and they must have teeth so that they can hold Governments and others to account. We all agree on that, and nothing that I have heard from the Environment Secretary suggests that his ambition for legislation on the environment post-Brexit will not deliver those requirements.

Wera Hobhouse: Will the hon. Gentleman give way?

James Heappey: I will gladly give way to my diocesan neighbour.

Wera Hobhouse: Does the hon. Gentleman not agree that the environment does not stop at borders, and that international agreements on environmental protection are vital? The danger that I see is that the UK is going it alone. It is important that we all do this together—and, in fact, we have been doing it together, which is why we have the single market and the European Union.

James Heappey: I take the hon. Lady's point, but I am not sure that the EU is necessarily the only vehicle for the purpose. The Minister for Climate Change and Industry, my hon. Friend the Member for Devizes (Claire Perry), attended the One Planet summit in Paris today, where she talked to representatives from countries all over the world, outside the EU and within, about arresting climate change.

The marine conservation Minister, my hon. Friend the Member for Suffolk Coastal (Dr Coffey), was in Malta six or seven weeks ago at a global UN conference on ocean rescue. Again, that was not an EU vehicle, but the UK was showing leadership among countries around the world. I understand that the Minister for Agriculture, Fisheries and Food, my hon. Friend the Member for Camborne and Redruth (George Eustice), has been at a conference about fishing in the last couple of days, and

that the discussion was not EU-orientated but global. I am therefore not entirely convinced that the UK is "going it alone". We are clearly well embedded in a whole range of international forums in which we can discuss our environmental ambitions globally.

As the hon. Lady rightly said, these are issues that cross borders. However we regulate the environment in the United Kingdom—and I am confident that we will be much more ambitious here than the EU is currently with its own regulations—we cannot turn our back on the rest of the world. Indeed, there is no evidence that we would, given the amount of international engagement that we already have, and the extent of the leadership that we are showing on so many issues relating to the environment and climate change.

I was surprised to note the Scottish National party's support for new clause 27, in particular. I accept what was said earlier by the hon. Member for Greenwich and Woolwich (Matthew Pennycook) about the intention to establish a regulatory body in England that might seek to be matched in Scotland and Wales, and that agreement would be sought from the devolved powers. However, the Bill refers specifically to a UK-wide regulatory framework. I will gladly give way to any SNP Member who wishes to intervene, but I wonder whether that in some way challenges the SNP's desire for the greater devolution of powers rather than their centralisation. Why would the SNP support a measure that refers to centralised regulation?

Furthermore, the DEFRA consultation on the new enforcement body must be published urgently. *[Interruption.]* I will gladly give way.

Stewart Malcolm McDonald (Glasgow South) (SNP) *rose—*

The Temporary Chair (David Hanson): Order. The hon. Gentleman is supposed to be actually in the Chamber in order to intervene.

8.15 pm

James Heappey: As I said, the DEFRA consultation on the new enforcement body must be published urgently; I agree with the NGO community on that, and Members on both sides will want to encourage the Environment Secretary to do exactly that. I also agree that our ambition should be that the new Bill to establish this new body, and to make the UK's environmental ambitions post-Brexit clear, should be passed through Parliament by March 2019. We will all want some reassurance from the Secretary of State in the near future that that is indeed his ambition.

Earlier, my right hon. Friend the Member for West Dorset spoke at much greater length than I intend to on the detail of this, but he is absolutely right that the Environment Secretary is clearly meeting the ambitions of everybody who is contributing to this debate from an environmental perspective. Some might choose to put their fingers in their ears, say it cannot possibly be so and seek to manufacture disagreement where there is none, but the Environment Secretary—in this Chamber, in the press, in the speeches he has been giving to the environmental community, and in his meetings with NGOs, I believe—has been very clear about what he intends to do.

Seeking to amend the Bill simply for the sake of amending it does not add anything to our ambition for stronger environmental regulations post-Brexit. We can be very confident that the Government are leading us in the right direction on environmental regulation. They are going far further than the EU currently does, and that is the key point: we should see current EU regulation merely as the floor for UK environmental regulation post Brexit, not the ceiling. I am confident that the Secretary of State has every intention of doing that.

Several hon. Members *rose—*

The Temporary Chair (David Hanson): Order. I again remind Members that there is a knife outside my control. Ten Members, possibly 11, wish to catch my eye and time is limited.

Hywel Williams (Arfon) (PC): I rise to speak to amendment 88, tabled in my name and those of my hon. Friends in Plaid Cymru and colleagues from other parties. It would prevent Ministers of the Crown from being able to replace, abolish or modify the functions of EU entities without first laying impact assessments on its effect before both Houses of Parliament. I appreciate that impact assessments are not popular among some Ministers; indeed, the Brexit Secretary made it clear last week that he does not believe in them at all, especially in terms of large-scale changes. It appears that he does not believe in applying a bit of forethought and method; perhaps a wet finger in the wind might suffice, or even the slaughter of white and black cockerels at midnight and the examination of their entrails afterwards. In the interests of clarity, by "impact assessment" I do not mean a sectoral analysis; my definition of impact assessment, as any good dictionary will tell us, is a

"prospective analysis of what the impact of an intervention might be, so as to inform policymaking".

Beyond the single market and customs union, there are upwards of 45 pan-European agencies that form the basis of our international relations across a range of policy areas. These agencies are intertwined with hundreds of EU programmes designed to progress societal, economic and environmental standards, from ensuring that planes can safely take off and land to the regulation of life-saving medicines.

Clause 7 will allow Ministers to put aside the advances made by our membership of those agencies, regardless of any formal assessment of the impact that action would have on our society, economy and environment. We have already seen the European Medicines Agency abandon the UK and move to Paris, with Amsterdam taking the European Banking Authority, resulting in the loss of over 1,000 jobs. Before being able to replace, abolish or modify any EU entity functions, this place should know exactly how doing so will affect their constituents.

I represent a university constituency, and we have a strong interest in new research and student mobility programmes, and in the agencies through which those programmes operate. For example, Erasmus+ is managed by the Education, Audiovisual and Cultural Executive Agency. There are 2,000 international students in Bangor. Without the participation in the European Commission's Horizon 2020 scheme, without the continuation of Interreg funding, and without Erasmus+,

[Hywel Williams]

universities in the UK will lose much of their competitive edge, and my constituency of Arfon will be hit disproportionately hard.

There is a ready-made solution for the Westminster Government as they navigate the labyrinth of Brexit. Norway has negotiated participation in 12 EU programmes and 31 EU agencies. The areas covered include anything from research co-operation and statistics to health and traffic safety. Norway has done this through its membership of the European economic area. It is about time that this Government paid due regard to the impact of their actions in formulating policy, and I therefore urge them to reconsider the issue of EU agencies and the programmes that they facilitate, while they still can.

Ms Nusrat Ghani (Wealden) (Con): Thank you, Mr Hanson, for giving me the opportunity to contribute to this important debate. Speeches on both sides of the Chamber have been technical, detailed and passionate, including the response from the Minister, and I hope to be able to add a few of my thoughts to this measured debate.

Leaving the European Union was never going to be easy. It was inevitable, after 40 years of the EU creeping into every crevice of our daily lives, that Brussels' overarching bureaucracy would touch every piece of domestic legislation imaginable. Ultimately, the whole point of the Bill is to ensure a clean, smooth Brexit that allows for an orderly transition from inside the EU to out. Transferring EU law to UK law is a mammoth task that requires an enormous amount of bureaucracy to complete. It is simply unfeasible for this Parliament to go through every piece of legislation affected by the EU line by line to approve its transfer into domestic law. I read recently that an individual vote on each of the 20,319 EU laws would take more than 200 days of parliamentary time, and that a debate on every page of those laws would take a similar amount of time. That simply is not feasible. The European Union (Withdrawal) Bill does a bulk copy and paste, ensuring that when we leave the EU in March 2019, our domestic legislation is not caught short. Understandably, deficiencies will arise. Those deficiencies are clearly laid out in clause 7(2), and if we are to ensure an orderly Brexit, they need cleaning up. No Member of this House believes that enough parliamentary time exists to fix all these faults, and that is why clause 7 is so important.

Clause 7 is not, as we often read in the papers, some kind of Tudoresque power grab; nor does it ride roughshod over Parliament. It provides delegated powers to a Minister to fix obscure but consequential deficiencies in legislation for a short period of time. Those delegated powers will never be used to make drastic policy changes. Such changes have always required, and always will require, a Queen's Speech or primary legislation. It is public and transparent, and it requires a majority vote. The sole purpose and scope of the delegated powers is to ensure that EU law is still operable after the UK leaves the EU. That is what our constituents want: consistency and security. Even those who want us to stay in the EU appreciate why this is so important, as we have heard from Members on both sides of the House, and from those who voted to remain as well as those who voted to leave. The Procedure Committee amendments that were accepted yesterday will create a sifting committee, confirming even more rigidly that Parliament will always have an input.

We are leaving the EU to bring back control to our courts and our Parliament, and clause 7 bolsters this. Ultimately, once we are out, this Parliament, elected by the British people, will be able to go through what we like and what we do not like, in our own time. For those still concerned that clause 7 is some sort of Tory plot designed to wipe away all workers' rights, subsection 7 makes it clear that, two years after exit day, these powers will no longer exist. There is a sunset clause. Not only that, but Ministers in the devolved Administrations will be able to use the same powers to amend legislation that falls into their catchment. This is further evidence that the Government are committed to a Brexit that works for the entire UK. It will be up to Holyrood, Cardiff and Stormont to choose how to use their increased decision-making powers.

It is vital that the Bill is passed as cleanly as possible, because it is a key component in ensuring that our departure from the EU is orderly. Clause 7 will play a big part in a smooth Brexit. It is not a power grab, and it is not the beginning of the kind of dictatorship that some would argue was taking place when we were inside the EU. We have a responsibility to our public to deliver on Brexit, and we should not delay or protract the process any further. The act of leaving the European Union represents a powerful decision to restore democracy to this Parliament, and I am pleased to support the Bill and to support the public who voted for this in the largest numbers in our country's history. I hope that my speech was short enough for you, Mr Hanson.

Stella Creasy: I have now been in the Chamber for seven hours, apart from a brief sojourn to serve on a statutory instrument Committee related to fish taxes in Scotland, which feels completely apposite given today's debate. No one is suggesting that there will not be points at which we may want to have a way to amend legislation, but I have concerns about clause 7. I am pleased to follow the hon. Member for Wealden (Ms Ghani) because I have a completely different opinion on what clause 7 offers. This is about so much more than taxes on fish.

It is important that our constituents understand that we are discussing a clause that gives Ministers the ability to introduce legislation when they consider it appropriate. I consider pudding always to be appropriate, but it is not necessarily necessary. This is one of those matters where the wording is crucial. The deficiencies that the Bill identifies are not limited as long as something can be called a deficiency, which is a huge loophole into which Ministers can reach.

The SIs that Ministers can bring in will have the effect of primary legislation—the same as any Act of Parliament—and the legislation can abolish functions of the European Union covering a whole range of issues. It would be a brave, bold, disciplined Minister who is not tempted by those powers. That is what we are discussing tonight. The hon. Member for Wealden suggested that the provisions do not look like a power grab, but they do not give power to the courts; they put power in Downing Street. That is the Opposition's concern, which my Front-Bench colleagues have so ably set out.

In the time available, I want to explain my particular concerns about the Henry VIII powers and amendment 332, which relates to a good example of what could go wrong.

It is clear that the Henry VIII powers are not about taking rights away; they are about sweeping them away. As the House of Lords Constitution Committee said, the use of such powers

"remains a departure from constitutional principle".

We know from recent years just how often Ministers have been tempted: cuts to tax credits, student maintenance grants, fracking, fox hunting, winter fuel payments, the electoral register and individual voter registration, and legal aid entitlements. Whether or not someone agrees with those policies, they are not fish taxes. They are not minor amendments to existing legislation. They represent major policy changes that the Government pushed through, or tried to push through, using SIs.

Since 1950, over 170,000 statutory instruments have been laid by Departments—2,500 a year. The hon. Member for Broxbourne (Mr Walker), the Chairman of the Procedure Committee, is not in his place, but he was talking about 1,000 SIs resulting from this legislation alone, which is half a year's worth of work and represents an awful lot of sifting. Only 17 of those 170,000 SIs were rejected. Indeed, the last time that the Commons rejected a statutory instrument was in 1979. The House of Lords has been more robust, having rejected six such instruments, and it has been rewarded with the Strathclyde review.

Amendment 49 is important because it is clear that when Governments have the ability to use SIs in this way, they do so. It is also clear that this House has not been able to exercise a comparable power of check and balance. Even when such SIs are lawful, the Supreme Court has said that they should be challenged in court. As the right hon. Member for Loughborough (Nicky Morgan) said, this Bill is almost a lawyer's charter.

I want to give the hon. Member for Wealden the example from amendment 332, which covers the elephant in the room during our debates on this Bill and relates to the rights of the British public and of future British citizens around freedom of movement. Freedom of movement has been bandied about as the reason why many people voted for us to leave the European Union. It is a key pillar of the single market—I will be supporting amendment 124 this evening because the single market represents the best deal for all our constituents—but we must address the question what we mean by freedom of movement.

We know that freedom of movement is a right worth fighting for. It means that kids in our communities can work for companies that have bases in Berlin or Rome, and they can be sent there without any hesitation. It means that if someone falls in love with their French exchange partner, they can move to Paris with them or the exchange can come and live here. It means that someone can be one of 4 million students every year who spend a year in another European country benefiting from that kind of education. These are freedoms that our communities are likely to need more options to access in the future, not less. It also means that people have come to our country and helped our NHS. They have brought jobs and investment, and, yes, British citizens have fallen in love with them. Their kids have gone to school with our kids. They are our neighbours, our friends and our family.

All that is now at risk. Whether we voted leave or remain, whether we think the referendum was about freedom of movement or leaving the single market, we should support the idea that Parliament, not Ministers, should make or rewrite decisions if Ministers do not like the outcome of our discussions. It is clear that the failure of the previous Prime Minister to reform freedom of movement does not mean that we should give up these rights without asking about those changes, and that is what amendment 332 would give us as a Parliament the power to do. It would stop clause 7 being used to make that a decision made by means of a statutory instrument.

8.30 pm

It is clear that many different decisions could be made—on whether rules could be put in place to require someone to have a previous job offer before coming to the UK; on whether we could apply an emergency brake, to learn from the Swiss; on whether we could recognise that many of the problems in our labour market are down not to freedom of movement but to exploitative labour practices, and that ending freedom of movement will only make that worse, making migrant workers even more of a target; or on whether training UK citizens to be able to compete in the modern world, rather than blaming immigrants for being better qualified, will give us a better future. The benefits that have come from immigration are worthy of our protection, too, rather than being written out by Ministers behind closed doors.

Amendment 332 is not just about freedom of movement; it is also about refugee rights that we have already heard the Minister say he cannot guarantee. I spent the weekend in Calais talking to people living in the mud, and I do not feel proud that our Government refused to make that guarantee. They are reneging on the Dublin regulations, which is why I support new clause 53, and I wish we would push it to a vote. We saw how the Government treated the Dubs children, and that is how they will treat refugees and our EU citizen neighbours and friends if they can get away with it. That is why clause 7 needs to be amended—to make sure that decisions about anyone's future come to the House rather than to back offices in statutory instruments.

The debates today about equalities and the environment all reflect decisions about the future of our communities and about the single market. We cannot keep fudging them. We cannot keep kicking the can down the road. We have to give the British people some certainty and clarity about how decisions will be made.

Henry VIII himself argued:

"It certainly strikes the beholder with astonishment, to perceive what vast difficulties can be overcome by the pigmy arms of little mortal man, aided by science and directed by superior skill."

Let me honest with the Ministers—I do not believe that the pigmy arms of little mortal men and women can be this sifting committee. It is like a turkey voting for Christmas to be held twice a year. This is no resolution to the problems of this Bill. We cannot even force the Government to bring an issue to the House if we believe that they should. Clause 7 stops us rising to the challenge that the Minister set—to overcome these difficulties on behalf of our constituents, no matter how complicated or sensitive the issue might be. I hope that Ministers will not hide behind Henry VIII powers but embrace his call for inquiry and scrutiny, because then this place at its best really can take back control.

The Temporary Chair (David Hanson): Order. If hon. Members do not keep to five minutes now, we will not get every Member in to contribute to the debate.

Vicky Ford (Chelmsford) (Con): It is a great honour to follow the wonderful women from Wealden and Walthamstow in their different speeches this evening. This is not a time to re-argue the referendum debates—they happened last year. This is the time to look forward, not to think about what we have left behind but to think about how we forge new relationships not only with the EU but with its single market and with other parts of the world.

One of the reasons why the Bill and tonight's discussion is so important is that it is about the way we as legislators intend to act. The rest of the world is watching us, and if we want to have deep, close co-operative relationships with other parts of the world, it is up to us to act in a predictable manner, to be honest and transparent. I am proud that as a Conservative during my time in Brussels I helped the Conservative-led Governments champion the better regulation agenda, which I have mentioned before. It is an agenda that says, "Before you make any changes to law, you consult those who will be affected and you consider the impacts, and you don't make decisions behind closed doors." That is why I added my name to amendment 3, as so many different pieces of European legislation would be affected.

The Library mentioned three of those, with one being fisheries, mesh size and fishing nets. Everybody who has been watching "Blue Planet" knows how important protecting our sea is. I am glad that the Library said it would be relatively straightforward to bring that piece of legislation directly into British law. It also talked about the open internet access law, which is fundamental to freedom of speech in a digital age; it deals with whether or not someone's internet provider can block or throttle content from others. That piece of law will need a number of policy decisions to be made when it is brought from European law into British law.

The Library also mentions the bank capital requirements, which is really boring law—it was five years of my life. It is deeply detailed but really important to our major financial services legislation and will involve policy decisions. So we need to make sure those policy decisions are made in an open and transparent way.

I am very glad that, thanks to the leadership of my hon. Friend the Member for Broxbourne (Mr Walker), the new sifting process has been put in place, not only under amendment 3, but under amendment 393, which the Government now support. I am also pleased that overnight last night they announced they would support a new European scrutiny instruments committee, which will scrutinise the various changes that need to be made to our law in this transposition and bring in expert guidance. We need the expertise of the Treasury Committee to look at changes to banking law and of the Environmental Audit Committee to look at changes to environmental law, because only in that way will we ensure that these details are properly addressed.

Clause 7 is complicated. It says that the Government will only be allowed to deal with "deficiencies", but the Bill contains no definition of them. We have heard Ministers tonight say that they will look again at this issue of deficiencies and whether they can give more clarity on that. Where a significant policy decision is being made that affects real stakeholders in the real world, we should have affirmative decisions.

There are also confusing powers in the Standing Order on what powers the statutory instrument committee will have. It says that the committee can turn a negative into an affirmative procedure only where a provision is of the type specified in paragraphs 1(2), 5(2) or 6(2) of schedule 7 of the law. When we read those paragraphs, we see that they are actually very limited. So that committee will need to think very hard about the principles of transparency that it wants to engage in, because it is in all our interests to make sure that when we move on to these new agreements—this new legislation—we give certainty not only to those watching us from overseas, but to the many people and businesses that these legal changes could affect.

Wera Hobhouse: I rise to speak in support of amendment 124, tabled by my right hon. Friend the Member for Carshalton and Wallington (Tom Brake), and new clause 27, tabled by the hon. Member for Brighton, Pavilion (Caroline Lucas). I am very pleased that she is here to introduce it later on.

What is the biggest long-term issue facing people here in Britain and across the world? It is not Brexit and it is not the world economy; it is climate change and the environment. For decades, we have thoughtlessly exploited our planet, heated the atmosphere and polluted the earth. The price we pay for continuing as before will be enormous.

As part of the European Union, Britain is making progress to tackle climate change. Together, we have signed up to the Paris agreement. Many European laws and regulations, which are our laws, have been a force for good and have nudged the UK towards better environmental protection and better protection for human health. That was possible through the effective enforcement of those laws by EU agencies and the European Commission. The Bill carries with it the risk that we might scrap the commitments we have shared with the EU to go it alone, or to throw in our lot with America or another country.

I want this country to become the greenest in the world. Before I became an MP, I was closely involved in improving how we dealt with our household and commercial waste following the EU landfill directive. Landfill produces a potent greenhouse gas, methane, and diverting landfill waste through recycling, composting and waste reduction is the only way to stop this greenhouse gas getting into the atmosphere. The UK is still one of the worst recyclers in the developed world, according to figures released the other day.

We have a long way to go and would not have gone as far as we have without the EU pushing us in the right direction and the effective enforcement of the European enforcement agencies and the Commission. We have talked for a while today about how the UK has been a leader on particular EU legislation. That is the beauty of the EU: in some areas, we are leaders; in other areas, such as air pollution, other countries have been leaders. Together, we have produced a body of legislation that makes things better for us all. Another example of good EU legislation is how our beaches have been cleaned up following EU directives. British beaches are now 99% clean and safe—that is what the EU has done for us.

The environment is owned by everybody. It is not a person or legal entity that can complain. Private ownership in a deregulated world does not protect the environment. That is why the legal principles that underpin the EU, as well as powerful and independent enforcement bodies, are so essential.

Frankly, I am not reassured by Ministers. The recent Brexit impact assessment debacle or the war of words over regulatory alignment or divergence are prime examples

of why we should not be bamboozled by fine words, but keep a watchful, eagle eye on the Government's every move. The draft animal welfare Bill that has been produced in a panic is not at all reassuring, but rather an example of how all the Government can do in the face of Brexit is to firefight. Indeed, the biggest problem for me is that Brexit has to happen in such an enormous rush, and that there is apparently the need to undo in a few short months the laws, regulations, enforcement, co-operation and partnerships that have evolved over 40 years.

The protection of the environment depends on cross-border co-operation. The environment is not a game of politics. It is the one thing that can either guarantee or endanger our own survival. The next best thing to staying in the EU would be to stay in the single market and the customs union. That alone would protect the high standards for the environment, health, safe employment, consumer protection and animal rights, and the oversight and enforcement of those standards by independent agencies. That is why everybody in the House should support amendment 124, tabled by my right hon. Friend the Member for Carshalton and Wallington, which would ensure that the Bill's provisions would not undermine EU regulations and their enforcement during the transition period, while we are still operating in the single market.

At the very least, we should set up independent regulatory bodies that are effective and have enough teeth to hold powerful organisations, global companies, industries and individuals to account, and new clause 27 would allow that to happen. Of course, it would be great if we could count on everybody to do the right thing, but experience tells us otherwise. Environmental crimes continue unfettered where there are not powerful laws and powerful enforcement agencies.

Would it not be a tragedy if Brexit meant that we aligned ourselves with Trump's America, pulling out of the Paris climate change agreement, expanding our fossil fuel industry, undermining our renewable energy industry, trampling over environmental protection laws and sitting idly by as the planet warmed up? Climate change is not "Project Fear"; it is the worrying and brutal reality. I started by saying that climate change is the biggest challenge of our age—bigger than Brexit. What a tragedy it will be if the environment and vital action to tackle climate change are the biggest victims of Brexit.

Alex Sobel (Leeds North West) (Lab/Co-op): Today's sitting has considered many important amendments on issues that I have long supported. New clause 27 in the name of the hon. Member for Brighton, Pavilion (Caroline Lucas) and amendment 96 in the name of my hon. Friend the Member for Bristol East (Kerry McCarthy) would ensure that we do not fall into a regulatory black hole when it comes to environmental protection. The Secretary of State's appearance before the Environmental Audit Committee, on which I sit, did not assuage any of our fears in that regard. New clause 53 in the name of the hon. Member for East Worthing and Shoreham (Tim Loughton) focuses on our obligations under Dublin III to help to reunite children and families who have been separated by war or persecution. I support those amendments and hope that they will be pressed to a vote. They are just three of a legion of amendments that show the true cross-party nature of the concerns about this Bill.

8.45 pm

However, my main focus is the Government's belief that they are authorised to create and exercise a huge range of new delegated powers, which is one of the most concerning consequences of the vote to leave the EU. The House of Lords and leading members of the legal profession have issued multiple warnings that the powers conferred under clauses 7, 8 and 9 are unprecedented, unarticulated and, in principle, unlimited.

In its interim report, the Lords Constitution Committee issued a stark warning that there was a threat that this Bill

"fundamentally challenges the constitutional balance between Parliament and Government"

and would represent an unacceptable transfer of competences to the Executive. I fully appreciate that we must deal with legislating our withdrawal from the EU quickly and robustly. However, lingering uncertainty, ambiguity and inconsistencies can be just as dangerous and damaging to the rule of law and public and business confidence as swift but reckless action.

However, during the referendum, the leave campaign invested a lot of political energy in animating a public conversation about the value of parliamentary sovereignty. In my view, the term "parliamentary sovereignty" functioned throughout the campaign as a cipher through which general anxieties about the accountability of Government were expressed. In a technical sense, of course, advocating parliamentary sovereignty does not automatically place one on one side of a debate concerning the powers of the legislature versus the Executive.

The legislature, the Executive and the authority of the Crown come together to constitute our parliamentary sovereignty. None the less, a major factor in the country's collective decision to leave the EU was the perception that the interests of the British public were not well served in our relationship with Europe. That was presented as an issue of high principle: we were "taking back control".

None of the huge volumes of evidence of the EU's contribution to the UK's collective welfare came close to challenging this central tenet of the leave campaign's argument for Brexit, but this is where the sweeping and seemingly all-encompassing powers conferred on the Executive by this Bill begin to look politically suspect. The need to govern a large and complex society makes delegated powers necessary. Policies approved in outline require fine-tuning in their administration. Even the best-laid plans struggle to survive a confrontation with reality, which the Prime Minister came to realise last week in concluding the first stage of the EU exit process.

However, delegated powers have slowly drifted into areas of principle and policy into which they were never meant to stray. Recently, these powers have been used to authorise fracking in national parks and to abolish maintenance grants. These were both matters of principle and "politics proper"; they were not technical details or matters to be worked through in administration.

It should not need to be said, but there are very good reasons why we distinguish the powers and responsibilities of Government. Not everything is a question of efficiency or expediency. The dangers of concentrated powers are well understood. The business of this House is deliberation—it is uniquely suited to that task. The business of the Executive is action. When the power to

legislate on matters of principle is passed to the Executive, we threaten to confuse and eliminate important practical and conceptual distinctions between our responsibilities and competences.

Even before the European Union (Withdrawal) Bill came before this House, the Hansard Society had expressed concern about the way in which Parliament deals with delegated legislation, saying that it is completely inconsistent and unsystematic. Today, it warned that the Government's proposed sifting committee would make little real difference to our scrutiny of EU exit legislation.

The truth is that this Government lack the mandate and integrity properly to confront and debate the issues of principle raised by this Bill. The powers they wish to grant themselves will function only to occlude and conceal their weaknesses and divisions. A minority Government, internally divided, shaken by scandal and high-profile resignations, cannot be trusted with this powerful set of new powers. This withdrawal process will touch on every aspect of British public and private life. It is therefore necessary—as far as is practically possible—that this Chamber confers its full legitimating force to this process. The breadth and scope of delegated authority in this Bill must be curtailed and safeguards introduced to protect existing rights. The power of ministers to create wide definitions when addressing so-called deficiencies must be constrained. New committees ought to be created to scrutinise and challenge delegated powers. This House must have the final say on any ratification of the future legal and political relationship with Europe. When will the Government allow Parliament to take back control, rather than deny us the ability properly to scrutinise legislation?

Stuart C. McDonald (Cumbernauld, Kilsyth and Kirkintilloch East) (SNP): Thank you, Mr Hanson, for the opportunity to join hon. Members in their criticism of the extraordinary breadth of the Henry VIII powers contained in this Bill and the inadequacy of existing scrutiny procedures for dealing with them. I welcome the host of amendments that have been tabled by hon. Members to help remedy these concerns.

The right hon. and learned Member for Beaconsfield (Mr Grieve) helpfully identified that there are two different types of amendments that seek to improve the situation. One group seeks to limit the scope of the powers so that they are used only in appropriate circumstances and only for the specific purpose of correcting tightly defined deficiencies. A second group of amendments seeks to enhance our ability to scrutinise the statutory instruments that Ministers will make using these powers. All those ideas are welcome. If several of them were passed this evening, they could make this part of the Bill a little bit more palatable.

I will focus on a third type of amendment that throws up a different issue in relation to clause 7—an issue for which I am not sure we have found the perfect remedy. Rather than limiting the use of Henry VIII powers or strengthening oversight of them, this group of amendments would require that the Government take action to ensure that certain important provisions of EU law can operate effectively after withdrawal. After all, clause 7 expressly anticipates—in fact, the whole thing is premised on the fact—that there will be chunks of retained EU law that will not operate effectively if deficiencies are not prevented, remedied or mitigated.

The express purpose of this Bill is saving and incorporating EU law as it stands on withdrawal day, but this purpose would be undermined considerably if parts of that EU law were allowed, whether by accident or design, simply to fester away uncorrected and therefore unable to operate effectively. It is for those reasons that a number of amendments have been tabled positively requiring action to be taken, including new clauses 62 and 63 on environmental law, amendment 131 on the rights of EU citizens and amendment 385 on European protection orders. I will focus on a similar example—new clause 53.

New clause 53 would require changes to the immigration rules to retain the effectiveness of the Dublin regulation. Dublin III is far from a perfect set of rules, but it has the welcome goal of ensuring that an asylum claim is determined in the most appropriate EU member state. Its most positive feature is the ability for a person who has made a claim in one member state to seek to have that claim transferred and determined by another member state—for example, where a young asylum seeker has a sibling, aunt or uncle in that country. For all the flaws of the Dublin regulation, those provisions are surely worth saving, regardless of how negotiations proceed.

Even though the rules are retained by the Bill in theory, Dublin III would clearly struggle to operate effectively unless corrected under clause 7. To prevent that, new clause 53 is designed to ensure that those powers are used so that "take charge" requests can continue to be made in the UK. Going further, for one limited and vulnerable group, the new clause seeks to bring the definition of family contained in UK family reunion rules in line with the definition of family in the Dublin regulations. It would mean that an unaccompanied child could seek family reunion with a broader group of family members without needing to make dangerous journeys to Europe in order to claim asylum and make a Dublin request. Currently—with the exception of when joining parents—alternative options for unaccompanied asylum-seeking children under the immigration rules are too restrictive and costly. As a result, they are rarely used. As UNICEF makes clear, a failure to take action risks adding to the number of unaccompanied children forced to take dangerous journeys with smugglers and traffickers in order to reach close family in the UK. That is why new clause 53 is so important.

I turn finally to a more general question. For every amendment or new clause that we are debating today requiring that retained and incorporated EU law in a particular area must be corrected using these powers, there will be large swathes of other EU laws where there is no such requirement. The question that occurs to me is: what happens if, by oversight or choice, the Government do not fix those provisions, rendering key measures useless? What are our courts going to do if confronted, for example, by a citizen seeking to establish rights under retained EU law when that retained law is riddled with deficiencies? Is the court supposed to try to make that work? Does the person lose their ability to exercise that right? I do not think that this issue has been touched on in the debate. In short, I wonder whether we still have work to do to find the appropriate and comprehensive solution in this Bill.

Should there be a mechanism, for example, to put Ministers under an obligation or duty to ensure that retained EU laws operate effectively? Should our courts be required to interpret retained EU laws in such a way

as to make them operate effectively wherever possible? Should there be a procedure to allow courts to flag up rules they have found cannot operate effectively? More modestly perhaps, do we simply need to require the Government to publish a list of all the deficiencies they have found in retained EU law and to detail what, if any, action they are taking to remedy them? That is, do we require the Government to list not only the statutory instruments they intend to table under clause 7, but what deficiencies they have identified that they are not going to rectify in that way? I am concerned that, without such changes, Parliament's intention of retaining EU law and an efficient and effective statute book after exit day may not prove as effective as we would wish.

Caroline Lucas: I rise to speak to the provisions in my name, and particularly to new clause 27, which I hope to press to a vote later this evening. I apologise to Members for being absent from the debate for a couple of hours while I was in a Committee.

New clause 27 aims to preserve the high level of environmental protection that comes with membership of the EU. As we have discussed tonight, there is a very real risk that Brexit will create a big gap when it comes to the enforcement, in particular, of environmental law and standards in this country. The European Commission's monitoring of member states' action to implement and comply with EU law, backed up by the European Court of Justice's ability to impose effective financial sanctions, have been an absolutely vital driver in pressing for and delivering environmental improvements in the UK. The example of clean air in London is just one case study that makes that point. In the absence of an effective domestic enforcement regime replicating the vital roles and functions currently performed by the Commission and the ECJ, it is difficult to see how the Government can deliver on their manifesto pledge to leave the environment in a better state than they found it.

On day 2 of the Committee, on 15 November, we had a good debate on the case for fully transposing the EU environmental principles into UK law. The debate was ultimately fruitless in terms of amending the Bill, but we heard a great deal from both sides of the Chamber about the importance of the EU environmental principles to the future protection of the environment in this country.

Perhaps most significantly, environmentalists such as myself were encouraged by a rather remarkable double act, with nods and comedic timing, of the right hon. Member for West Dorset (Sir Oliver Letwin) and the Secretary of State for Environment, Food and Rural Affairs. From that, we learned a little more about the Secretary of State's plan, first announced on 12 November, to consult on a new independent statutory body to

> "advise and challenge government and potentially other public bodies on environmental legislation…stepping in when needed to hold these bodies to account and enforce standards."

More to the point, we were led to believe that the Secretary of State now intends to introduce an environmental protection Bill to establish an environmental protection body with prosecutorial powers and independence from Government that is charged with policing and enforcing a national policy statement incorporating the EU environmental principles.

That amounts to a welcome recognition on the part of the Secretary of State of the risk of an ever-widening governance gap on environmental protection after the UK leaves the EU if there is not a domestic enforcement regime. Taken at face value, it also seems to be an acknowledgment that the new environmental protection body must be absolutely independent of Government; must be prosecutorial and investigatory so that it can hold the Government and other public bodies to account, including through the courts if necessary; and must be robust and durable so that it cannot easily be abolished or have its functions eroded by stealth.

However, what we still do not know is whether this is a concrete plan that will soon be put into practice so as to ensure the protection of environmental standards in the UK from March 2019, or something that the Secretary of State alone ruminates about while in the bath.

Sir Oliver Letwin *rose—*

Caroline Lucas: I am sorry—I love having discussions with the right hon. Gentleman, but I am aware that other people want to speak.

I will come straight to the point. My case is that the right hon. Gentleman wants me to have enough faith in the Secretary of State and in the capacity of this Government to get through a whole new piece of legislation in time. The crux of this debate is whether the rest of the House is prepared to go along with the confidence the right hon. Gentleman demonstrates, or whether we want to have a belt-and-braces approach.

The right hon. Gentleman said earlier that the idea of putting something in the Bill was inelegant. It may well be inelegant, but it is also a belt-and-braces way of making sure that, come the day we leave the EU—if indeed we do—we have all this legislation in an enforceable form on our statute book. If the Government are already saying, "Of course we're going to do it—why worry?" why would they be so afraid of putting this into the Bill too? I appreciate that it is not elegant, but I would rather be inelegant and effective than elegant and ineffective.

That is why I want to press new clause 27 to a vote. It is a belt-and-braces way of ensuring with absolute certainty that when EU laws are brought into UK law they are properly enforceable and can be properly implemented. I had more to say, but to be fair to others, I will end now.

9 pm

Stephen Kinnock: I rise to speak to new clause 37, tabled in my name and the names of many hon. Friends.

Before I turn specifically to the detail of the new clause, I would like to summarise the powers and functions of regulatory institutions. In essence, they are: monitoring and measuring compliance with legal requirements; reviewing and reporting on compliance with legal requirements; enforcing legal requirements; setting standards or targets; co-ordinating action; and publicising information. Thus we see that regulatory institutions and agencies play an absolutely central role in the proper functioning of our economy and, indeed, of our broader society. They are, as it were, the traffic lights that keep the traffic flowing around our economy, and the shields that protect our fundamental rights and freedoms.

I turn my attention to the impact that Brexit will have on the vital role that EU agencies currently play. We all know that the transition phase will, in essence, be a

[Stephen Kinnock]

carbon copy of the status quo minus our representation in the EU institutions. The problem is that when we leave the EU on 29 March 2019, we will become a third country, and we will be leaving the 52 agencies that currently carry out the tasks and functions that I listed. According to research commissioned by the House of Commons Library, 16 of those 52 agencies have no provision whatever for third country participation and a further 12 allow only for observer or a vague co-operation status. That means that 28 out of the 52 EU agencies have no provision for third country participation. We are therefore facing, at the time of leaving, a yawning and very dangerous governance gap.

The purpose of my new clause is to force the Government to commit to institutional parity, meaning that all powers and functions currently relating to any freedom, right or protection that was exercised by EU agencies should continue to be carried out by an EU agency, be carried out by an appropriate existing or newly established entity or be carried out by an appropriate international entity.

Without UK institutions to take on the job of EU agencies, we will see fundamental rights, protections and regulations being removed by the back door having been rendered unenforceable. This Bill will then not be worth the paper it is written on unless it is backed up by regulatory agencies. The risks are daunting. How will we reassure businesses that wish to invest in our country if we cannot guarantee a predictable and consistent regulatory regime? How will we reassure consumers that our food hygiene standards are up to international standards? How we will we reassure people that our nuclear safety, chemicals or medicines are up to international and European standards? We can do this only if we have strong regulatory agencies to implement the terms of our legislation. I therefore commend new clause 37 to the Committee.

Chris Stephens: I wish to speak in favour of amendment 73, which was spoken to by my hon. Friend the Member for Edinburgh East (Tommy Sheppard). The amendment asks that workers' rights be agreed by the Joint Ministerial Committee and seeks to clarify the role of the committee in this regard. There are three reasons why that should be done. First, there is divergence. Employment law is totally devolved to Northern Ireland; it is partially devolved to Wales, where the Welsh Assembly took the decision—rightly, my view—to amend the worst aspects of the anti-Trade Union Act; but, for reasons beyond my understanding, employment law is not yet devolved to Scotland. Secondly, there is a real concern about the impact on women workers, who would be very vulnerable to roll-back given the history of delivery on these measures, especially as most have been informed by EU directives and law. Thirdly, of course, there is a trust issue. Who would trust a Conservative Government on their commitments to workers' rights?

The amendment is designed to explore the extent of the Government's respect for the Joint Ministerial Committee's role, and the extent to which they intend to use their powers. Either they respect joint working and consultation to achieve the best solutions in a post-Brexit world—in that case, the amendment should pose no challenges—or there is an agenda of bypassing the devolved Administrations at every turn, and shifting power and decision making back to Westminster.

The Henry VIII powers are a constitutional affront, given the secretive nature of their use. Ministers could use them to bypass Parliament, the judiciary and the devolved Administrations, or quietly to reshape the law without scrutiny. When it comes to employment law, I contend that the Government might wish discreetly to reverse particular Supreme Court decisions on, for example, the civil service compensation scheme, workplace consultations and industrial tribunal fees. In the Unison case, the Supreme Court held that the fees order was unlawful as a matter of not only domestic law, but EU law. Given all the cases in which the Government of the day have suffered a reversal of a decision to which they held so strongly that they were prepared to go to the Supreme Court, and in which EU law formed part of the judgment against them, it is not fanciful to think that they might want revisit the issues, especially when it comes to employment law and workers' rights.

When Brexit fails to deliver the promised economic bonanza, it is logical to assume that a free market, anti-worker party will look to erode workers' rights to boost profits. I commend to the Committee the TUC paper "Women workers' rights and the risks of Brexit". It outlines clearly and in detail the specific threat that Brexit poses to women workers. Legislation and protections have evolved under the protection of EU law, so we are right to be concerned that removing that umbrella will mean that there are stormy days ahead for women workers.

It is not so much that the rights concerning equal pay, maternity and sex discrimination will disappear overnight, but I share the concerns that hard-fought rights will be eroded, particularly if that can be done under the cover of statutory instrument and ministerial diktat. We saw that with the anti-Trade Union Act 2016—not just in the attitudes of Conservative Members in the Chamber, but in the approach to delegated legislation.

Stephen Doughty: The point that the hon. Gentleman makes is absolutely right. Is it not also the case that the Government have tried to undermine the Welsh Government's efforts to protect trade unions by trying to strike down parts of that Act?

Chris Stephens: I thank the hon. Gentleman for making that point for me. He is absolutely correct that that is what the Government are trying to do. Statements have been made in the House of Lords, including by the former chair of the European Conservatives and Reformists group in the European Parliament, who has previously called for the scrapping of

"the working time directive, the agency workers' directive, the pregnant workers' directive and all the other barriers to actually employing people."

That was said by Lord Callanan, now a Minister of State at the Department for Exiting the European Union—and the Conservatives ask us to trust them on workers' rights! I would not trust them enough to send them out for the rolls in the morning. The Tories cannot be trusted on workers' rights; if they were truly interested in workers' rights, they would accept the amendment.

Mr Leslie: This has been a very important debate. Some may feel that this is a dry issue of constitutional process and ask how it relates to the question of Britain's role in the rest of the world. However, it is fundamentally

important to recognise Ministers' land grab in attempting to take very sweeping powers, by order—not simply to transpose technical and necessary EU laws into UK law, but potentially to take whole areas of public policy and make changes by regulation with the sweep of a pen.

Anyone who looks at clause 7, the subject of this debate, will see a number of gaping holes that allow Ministers to drive a coach and horses through a whole series of policy areas. They can say that an order is "appropriate", and that is all they have to prove—they are not "limited" to the areas that are set out.

By the way, the Minister was not even able to describe what the word "appropriate" meant. He was asked to do so in an intervention, and he could not. Ministers have also taken powers, by order, to abolish public services currently undertaken by EU agencies. This is a serious breach of the constitutional principle that Parliament should normally dictate what can be done by the Executive, who are trying to take very many powers.

A lot of amendments have been considered today. I hope that we can vote on amendment 124, because it would make sure that nothing undermines the UK staying aligned with the single market after exit day, which is a very important principle. In her amendment 49, my right hon. Friend the Member for Normanton, Pontefract and Castleford (Yvette Cooper) deals with some of the Henry VIII powers. Given that there are so many other amendments and I know hon. Members want to prioritise theirs, I beg to ask leave to withdraw my new clause 18.

Clause, by leave, withdrawn.

New Clause 63

ENVIRONMENTAL STANDARDS AND PROTECTIONS: ENFORCEMENT

'(1) Before exit day a Minister of the Crown must make provision that all powers and functions relating to environmental standards and protections that were exercisable by EU entities or other public authorities anywhere in the United Kingdom before exit day and which do not cease to have effect as a result of the withdrawal agreement ("relevant powers and functions") will be carried out by an appropriate existing or newly established entity or public authority in the United Kingdom.

(2) For the purposes of this section, relevant powers and functions include, but are not limited to—

(a) reviewing and reporting on the implementation of environmental standards in practice,

(b) monitoring and measuring compliance with legal requirements,

(c) publicising information including regarding compliance with environmental standards,

(d) facilitating the submission of complaints from persons with regard to possible infringements of legal requirements, and

(e) enforcing legal commitments.

(3) For the purposes of this section, relevant powers and functions carried out by an appropriate existing or newly established entity or public authority in the United Kingdom on any day after exit day must be at least equivalent to all those exercisable by EU entities or other public authorities anywhere in the United Kingdom before exit day which do not cease to have effect as a result of the withdrawal agreement.

(4) Any newly established entity or public authority in the United Kingdom charged with exercising any relevant powers and functions on any day after exit day shall not be established other than by an Act of Parliament.

(5) Before making provision under subsection (1), a Minister of the Crown shall hold a public consultation on—

(a) the precise scope of the relevant powers and functions to be carried out by an appropriate existing or newly established entity or public authority in the United Kingdom, and

(b) the institutional design of any entity or public authority in the United Kingdom to be newly established in order to exercise relevant powers and functions.

(6) A Minister of the Crown may by regulations make time-limited transitional arrangements for the exercise of relevant powers and functions until such time as an appropriate existing or newly established entity or public authority in the United Kingdom is able to carry them out.'—*(Matthew Pennycook.)*

This new clause would require the Government to establish new domestic governance arrangements following the UK's exit from the EU for environmental standards and protections, following consultation.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 293, Noes 315.

Division No. 63] [9.11 pm

AYES

Abbott, rh Ms Diane
Abrahams, Debbie
Alexander, Heidi
Ali, Rushanara
Allin-Khan, Dr Rosena
Amesbury, Mike
Antoniazzi, Tonia
Ashworth, Jonathan
Austin, Ian
Bailey, Mr Adrian
Bardell, Hannah
Barron, rh Sir Kevin
Beckett, rh Margaret
Benn, rh Hilary
Betts, Mr Clive
Black, Mhairi
Blackford, rh Ian
Blackman, Kirsty
Blackman-Woods, Dr Roberta
Blomfield, Paul
Brabin, Tracy
Bradshaw, rh Mr Ben
Brake, rh Tom
Brennan, Kevin
Brock, Deidre
Brown, Alan
Brown, Lyn
Brown, rh Mr Nicholas
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Richard
Butler, Dawn
Byrne, rh Liam
Cable, rh Sir Vince
Cadbury, Ruth
Cameron, Dr Lisa
Campbell, rh Mr Alan
Campbell, Mr Ronnie
Carden, Dan
Carmichael, rh Mr Alistair
Chapman, Douglas
Chapman, Jenny
Charalambous, Bambos
Cherry, Joanna
Clwyd, rh Ann
Coaker, Vernon
Coffey, Ann
Cooper, Julie
Cooper, Rosie
Cooper, rh Yvette
Corbyn, rh Jeremy
Cowan, Ronnie
Coyle, Neil
Creagh, Mary
Creasy, Stella
Cruddas, Jon
Cryer, John
Cummins, Judith
Cunningham, Alex
Cunningham, Mr Jim
Dakin, Nic
Davey, rh Sir Edward
David, Wayne
Davies, Geraint
Day, Martyn
De Cordova, Marsha
De Piero, Gloria
Dent Coad, Emma
Dhesi, Mr Tanmanjeet Singh
Docherty-Hughes, Martin
Dodds, Anneliese
Doughty, Stephen
Dowd, Peter
Drew, Dr David
Dromey, Jack
Duffield, Rosie
Eagle, Ms Angela
Eagle, Maria
Efford, Clive
Elliott, Julie
Ellman, Mrs Louise
Elmore, Chris
Esterson, Bill
Evans, Chris
Farrelly, Paul
Farron, Tim
Field, rh Frank
Fitzpatrick, Jim
Fletcher, Colleen
Flint, rh Caroline
Fovargue, Yvonne

Foxcroft, Vicky
Frith, James
Furniss, Gill
Gaffney, Hugh
Gapes, Mike
Gardiner, Barry
George, Ruth
Gethins, Stephen
Gibson, Patricia
Gill, Preet Kaur
Glindon, Mary
Godsiff, Mr Roger
Goodman, Helen
Grady, Patrick
Grant, Peter
Gray, Neil
Green, Kate
Greenwood, Lilian
Greenwood, Margaret
Griffith, Nia
Grogan, John
Gwynne, Andrew
Haigh, Louise
Hamilton, Fabian
Hardy, Emma
Harman, rh Ms Harriet
Harris, Carolyn
Hayes, Helen
Hayman, Sue
Healey, rh John
Hendrick, Mr Mark
Hendry, Drew
Hepburn, Mr Stephen
Hermon, Lady
Hill, Mike
Hillier, Meg
Hobhouse, Wera
Hodge, rh Dame Margaret
Hodgson, Mrs Sharon
Hoey, Kate
Hollern, Kate
Hopkins, Kelvin
Hosie, Stewart
Howarth, rh Mr George
Huq, Dr Rupa
Hussain, Imran
Jardine, Christine
Jarvis, Dan
Johnson, Diana
Jones, Darren
Jones, Gerald
Jones, Graham P.
Jones, Helen
Jones, Mr Kevan
Jones, Sarah
Jones, Susan Elan
Kane, Mike
Keeley, Barbara
Kendall, Liz
Khan, Afzal
Killen, Ged
Kinnock, Stephen
Kyle, Peter
Laird, Lesley
Lake, Ben
Lamb, rh Norman
Lammy, rh Mr David
Lavery, Ian
Law, Chris
Lee, Ms Karen
Leslie, Mr Chris
Lewell-Buck, Mrs Emma
Lewis, Clive
Linden, David
Lloyd, Stephen
Lloyd, Tony
Long Bailey, Rebecca
Lucas, Caroline
Lucas, Ian C.
Lynch, Holly
MacNeil, Angus Brendan
Madders, Justin
Mahmood, Mr Khalid
Mahmood, Shabana
Malhotra, Seema
Mann, John
Marsden, Gordon
Martin, Sandy
Maskell, Rachael
Matheson, Christian
Mc Nally, John
McCabe, Steve
McCarthy, Kerry
McDonagh, Siobhain
McDonald, Andy
McDonald, Stewart Malcolm
McDonald, Stuart C.
McDonnell, rh John
McFadden, rh Mr Pat
McGinn, Conor
McGovern, Alison
McInnes, Liz
McKinnell, Catherine
McMahon, Jim
McMorrin, Anna
Mearns, Ian
Miliband, rh Edward
Monaghan, Carol
Moran, Layla
Morden, Jessica
Morgan, Stephen
Morris, Grahame
Murray, Ian
Nandy, Lisa
Newlands, Gavin
Norris, Alex
O'Hara, Brendan
Onasanya, Fiona
Onn, Melanie
Onwurah, Chi
Osamor, Kate
Owen, Albert
Peacock, Stephanie
Pearce, Teresa
Pennycook, Matthew
Perkins, Toby
Phillips, Jess
Phillipson, Bridget
Pidcock, Laura
Platt, Jo
Pollard, Luke
Pound, Stephen
Powell, Lucy
Qureshi, Yasmin
Rashid, Faisal
Rayner, Angela
Reed, Mr Steve
Rees, Christina
Reeves, Ellie
Reeves, Rachel
Reynolds, Jonathan
Rimmer, Ms Marie
Rodda, Matt
Rowley, Danielle
Ruane, Chris
Russell-Moyle, Lloyd
Ryan, rh Joan
Saville Roberts, Liz
Shah, Naz
Sheerman, Mr Barry
Sheppard, Tommy
Sherriff, Paula
Shuker, Mr Gavin
Siddiq, Tulip
Skinner, Mr Dennis
Slaughter, Andy
Smeeth, Ruth
Smith, Angela
Smith, Cat
Smith, Eleanor
Smith, Nick
Smith, Owen
Smyth, Karin
Snell, Gareth
Sobel, Alex
Spellar, rh John
Starmer, rh Keir
Stephens, Chris
Stevens, Jo
Stone, Jamie
Streeting, Wes
Sweeney, Mr Paul
Swinson, Jo
Tami, Mark
Thewliss, Alison
Thomas, Gareth
Thomas-Symonds, Nick
Thornberry, rh Emily
Timms, rh Stephen
Trickett, Jon
Turner, Karl
Twigg, Derek
Twigg, Stephen
Twist, Liz
Umunna, Chuka
Vaz, Valerie
Walker, Thelma
Watson, Tom
West, Catherine
Western, Matt
Whitehead, Dr Alan
Whitfield, Martin
Whitford, Dr Philippa
Williams, Hywel
Williams, Dr Paul
Williamson, Chris
Wilson, Phil
Wishart, Pete
Woodcock, John
Yasin, Mohammad
Zeichner, Daniel

Tellers for the Ayes:
Jeff Smith and
Thangam Debbonaire

NOES

Adams, Nigel
Afolami, Bim
Afriyie, Adam
Aldous, Peter
Allan, Lucy
Allen, Heidi
Argar, Edward
Atkins, Victoria
Bacon, Mr Richard
Badenoch, Mrs Kemi
Baker, Mr Steve
Baldwin, Harriett
Barclay, Stephen
Baron, Mr John
Bebb, Guto
Bellingham, Sir Henry
Beresford, Sir Paul
Berry, Jake
Blackman, Bob
Blunt, Crispin
Boles, Nick
Bone, Mr Peter
Bottomley, Sir Peter
Bowie, Andrew
Bradley, Ben
Bradley, rh Karen
Brady, Mr Graham
Brereton, Jack
Bridgen, Andrew
Brine, Steve
Brokenshire, rh James
Bruce, Fiona
Buckland, Robert
Burghart, Alex
Burns, Conor
Burt, rh Alistair
Cairns, rh Alun
Campbell, Mr Gregory
Cartlidge, James
Cash, Sir William
Caulfield, Maria
Chalk, Alex
Chishti, Rehman
Chope, Mr Christopher
Churchill, Jo
Clark, Colin
Clark, rh Greg
Clarke, rh Mr Kenneth
Clarke, Mr Simon
Cleverly, James
Clifton-Brown, Geoffrey
Coffey, Dr Thérèse
Collins, Damian
Costa, Alberto
Courts, Robert
Cox, Mr Geoffrey
Crabb, rh Stephen
Crouch, Tracey
Davies, Chris
Davies, David T. C.
Davies, Glyn
Davies, Mims
Davies, Philip
Davis, rh Mr David
Dinenage, Caroline
Djanogly, Mr Jonathan
Docherty, Leo
Dodds, rh Nigel
Donaldson, rh Sir Jeffrey M.
Donelan, Michelle
Dorries, Ms Nadine
Double, Steve
Dowden, Oliver
Doyle-Price, Jackie
Drax, Richard
Duddridge, James
Duguid, David
Duncan, rh Sir Alan

Duncan Smith, rh Mr Iain
Dunne, Mr Philip
Ellis, Michael
Ellwood, rh Mr Tobias
Elphicke, Charlie
Eustice, George
Evans, Mr Nigel
Evennett, rh David
Fabricant, Michael
Fernandes, Suella
Field, rh Mark
Ford, Vicky
Foster, Kevin
Francois, rh Mr Mark
Frazer, Lucy
Freeman, George
Freer, Mike
Fysh, Mr Marcus
Gale, Sir Roger
Garnier, Mark
Gauke, rh Mr David
Ghani, Ms Nusrat
Gibb, rh Nick
Gillan, rh Mrs Cheryl
Girvan, Paul
Glen, John
Goldsmith, Zac
Goodwill, Mr Robert
Gove, rh Michael
Graham, Luke
Graham, Richard
Grant, Bill
Grant, Mrs Helen
Gray, James
Grayling, rh Chris
Green, Chris
Green, rh Damian
Greening, rh Justine
Grieve, rh Mr Dominic
Griffiths, Andrew
Gyimah, Mr Sam
Hair, Kirstene
Halfon, rh Robert
Hall, Luke
Hammond, rh Mr Philip
Hammond, Stephen
Hancock, rh Matt
Hands, rh Greg
Harper, rh Mr Mark
Harrington, Richard
Harris, Rebecca
Harrison, Trudy
Hart, Simon
Hayes, rh Mr John
Heald, rh Sir Oliver
Heappey, James
Heaton-Harris, Chris
Heaton-Jones, Peter
Henderson, Gordon
Herbert, rh Nick
Hinds, Damian
Hoare, Simon
Hollingbery, George
Hollinrake, Kevin
Hollobone, Mr Philip
Holloway, Adam
Howell, John
Huddleston, Nigel
Hughes, Eddie
Hunt, rh Mr Jeremy
Hurd, Mr Nick
Jack, Mr Alister
James, Margot
Javid, rh Sajid
Jayawardena, Mr Ranil
Jenkin, Mr Bernard
Jenrick, Robert
Johnson, rh Boris
Johnson, Dr Caroline
Johnson, Gareth
Johnson, Joseph
Jones, Andrew
Jones, rh Mr David
Jones, Mr Marcus
Kawczynski, Daniel
Keegan, Gillian
Kennedy, Seema
Kerr, Stephen
Knight, rh Sir Greg
Knight, Julian
Kwarteng, Kwasi
Lamont, John
Lancaster, Mark
Latham, Mrs Pauline
Leadsom, rh Andrea
Lee, Dr Phillip
Lefroy, Jeremy
Leigh, Sir Edward
Letwin, rh Sir Oliver
Lewer, Andrew
Lewis, rh Brandon
Lewis, rh Dr Julian
Lidington, rh Mr David
Little Pengelly, Emma
Lopez, Julia
Lopresti, Jack
Lord, Mr Jonathan
Loughton, Tim
Mackinlay, Craig
Maclean, Rachel
Main, Mrs Anne
Mak, Alan
Malthouse, Kit
Mann, Scott
Masterton, Paul
Maynard, Paul
McLoughlin, rh Sir Patrick
McPartland, Stephen
McVey, rh Ms Esther
Menzies, Mark
Mercer, Johnny
Merriman, Huw
Metcalfe, Stephen
Miller, rh Mrs Maria
Milling, Amanda
Mills, Nigel
Milton, rh Anne
Mitchell, rh Mr Andrew
Moore, Damien
Mordaunt, rh Penny
Morgan, rh Nicky
Morris, Anne Marie
Morris, David
Morris, James
Morton, Wendy
Mundell, rh David
Murray, Mrs Sheryll
Murrison, Dr Andrew
Neill, Robert
Newton, Sarah
Nokes, Caroline
Norman, Jesse
O'Brien, Neil
Offord, Dr Matthew
Opperman, Guy
Paisley, Ian
Parish, Neil
Patel, rh Priti
Paterson, rh Mr Owen
Pawsey, Mark
Penning, rh Sir Mike
Penrose, John
Percy, Andrew
Perry, Claire
Philp, Chris
Pincher, Christopher
Pow, Rebecca
Prentis, Victoria
Prisk, Mr Mark
Pritchard, Mark
Pursglove, Tom
Quin, Jeremy
Quince, Will
Raab, Dominic
Redwood, rh John
Rees-Mogg, Mr Jacob
Robertson, Mr Laurence
Robinson, Gavin
Robinson, Mary
Rosindell, Andrew
Ross, Douglas
Rowley, Lee
Rudd, rh Amber
Rutley, David
Sandbach, Antoinette
Scully, Paul
Seely, Mr Bob
Selous, Andrew
Shannon, Jim
Shapps, rh Grant
Sharma, Alok
Shelbrooke, Alec
Simpson, David
Simpson, rh Mr Keith
Skidmore, Chris
Smith, Chloe
Smith, Henry
Smith, rh Julian
Smith, Royston
Soames, rh Sir Nicholas
Soubry, rh Anna
Spelman, rh Dame Caroline
Spencer, Mark
Stevenson, John
Stewart, Bob
Stewart, Iain
Stewart, Rory
Stride, rh Mel
Stuart, Graham
Sturdy, Julian
Sunak, Rishi
Swayne, rh Sir Desmond
Swire, rh Sir Hugo
Syms, Sir Robert
Thomas, Derek
Thomson, Ross
Throup, Maggie
Tolhurst, Kelly
Tomlinson, Justin
Tomlinson, Michael
Tracey, Craig
Tredinnick, David
Trevelyan, Mrs Anne-Marie
Truss, rh Elizabeth
Tugendhat, Tom
Vaizey, rh Mr Edward
Vara, Mr Shailesh
Vickers, Martin
Villiers, rh Theresa
Walker, Mr Charles
Walker, Mr Robin
Wallace, rh Mr Ben
Warburton, David
Warman, Matt
Watling, Giles
Whately, Helen
Wheeler, Mrs Heather
Whittaker, Craig
Whittingdale, rh Mr John
Wiggin, Bill
Williamson, rh Gavin
Wilson, Sammy
Wollaston, Dr Sarah
Wood, Mike
Wragg, Mr William
Wright, rh Jeremy
Zahawi, Nadhim

Tellers for the Noes:
Andrew Stephenson and Stuart Andrew

Question accordingly negatived.

9.25 pm

More than eight hours having elapsed since the commencement of proceedings, the proceedings were interrupted (Programme Order, 11 September).

The Chair put forthwith the Questions necessary for the disposal of the business to be concluded at that time (Standing Order No. 83D).

Clause 7

Dealing with deficiencies arising from withdrawal

Amendment proposed: 49, in page 5, line 7, at end insert—

"(1A) Regulations under subsection (1) may be made so far as necessary to adapt the body of EU law to fit the UK's domestic legal framework."—*(Yvette Cooper.)*

This amendment would place a general provision on the face of the Bill to the effect that the delegated powers granted by the Bill should be used only so far as necessary.

Question put, That the amendment be made.

The House divided: Ayes 295, Noes 312.

Division No. 64] [9.25 pm

AYES

Abbott, rh Ms Diane
Abrahams, Debbie
Alexander, Heidi
Ali, Rushanara
Allin-Khan, Dr Rosena
Amesbury, Mike
Antoniazzi, Tonia
Ashworth, Jonathan
Austin, Ian
Bailey, Mr Adrian
Bardell, Hannah
Barron, rh Sir Kevin
Beckett, rh Margaret
Benn, rh Hilary
Betts, Mr Clive
Black, Mhairi
Blackford, rh Ian
Blackman, Kirsty
Blackman-Woods, Dr Roberta
Blomfield, Paul
Brabin, Tracy
Bradshaw, rh Mr Ben
Brake, rh Tom
Brennan, Kevin
Brock, Deidre
Brown, Alan
Brown, Lyn
Brown, rh Mr Nicholas
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Richard
Butler, Dawn
Byrne, rh Liam
Cable, rh Sir Vince
Cadbury, Ruth
Cameron, Dr Lisa
Campbell, rh Mr Alan
Campbell, Mr Ronnie
Carden, Dan
Carmichael, rh Mr Alistair
Chapman, Douglas
Chapman, Jenny
Charalambous, Bambos
Cherry, Joanna
Clarke, rh Mr Kenneth
Clwyd, rh Ann
Coaker, Vernon
Coffey, Ann
Cooper, Julie
Cooper, Rosie
Cooper, rh Yvette
Corbyn, rh Jeremy
Cowan, Ronnie
Coyle, Neil
Creagh, Mary
Creasy, Stella
Cruddas, Jon
Cryer, John
Cummins, Judith
Cunningham, Alex
Cunningham, Mr Jim
Dakin, Nic
Davey, rh Sir Edward
David, Wayne
Davies, Geraint
Day, Martyn
De Cordova, Marsha
De Piero, Gloria
Debbonaire, Thangam
Dent Coad, Emma
Dhesi, Mr Tanmanjeet Singh
Docherty-Hughes, Martin
Dodds, Anneliese
Dowd, Peter
Drew, Dr David
Dromey, Jack
Duffield, Rosie
Eagle, Ms Angela
Eagle, Maria
Efford, Clive
Elliott, Julie
Ellman, Mrs Louise
Elmore, Chris
Esterson, Bill
Evans, Chris
Farrelly, Paul
Farron, Tim
Fitzpatrick, Jim
Fletcher, Colleen
Flint, rh Caroline
Flynn, Paul
Fovargue, Yvonne
Foxcroft, Vicky
Frith, James
Furniss, Gill
Gaffney, Hugh
Gapes, Mike
Gardiner, Barry
George, Ruth
Gethins, Stephen
Gibson, Patricia
Gill, Preet Kaur
Glindon, Mary
Godsiff, Mr Roger
Goodman, Helen
Grant, Peter
Gray, Neil
Green, Kate
Greenwood, Lilian
Greenwood, Margaret
Griffith, Nia
Grogan, John
Gwynne, Andrew
Haigh, Louise
Hamilton, Fabian
Hardy, Emma
Harman, rh Ms Harriet
Harris, Carolyn
Hayes, Helen
Hayman, Sue
Healey, rh John
Hendrick, Mr Mark
Hendry, Drew
Hepburn, Mr Stephen
Hermon, Lady
Hill, Mike
Hillier, Meg
Hobhouse, Wera
Hodge, rh Dame Margaret
Hodgson, Mrs Sharon
Hollern, Kate
Hopkins, Kelvin
Hosie, Stewart
Howarth, rh Mr George
Huq, Dr Rupa
Hussain, Imran
Jardine, Christine
Jarvis, Dan
Johnson, Diana
Jones, Darren
Jones, Gerald
Jones, Graham P.
Jones, Helen
Jones, Mr Kevan
Jones, Sarah
Jones, Susan Elan
Kane, Mike
Keeley, Barbara
Kendall, Liz
Khan, Afzal
Killen, Ged
Kinnock, Stephen
Kyle, Peter
Laird, Lesley
Lake, Ben
Lamb, rh Norman
Lammy, rh Mr David
Lavery, Ian
Law, Chris
Lee, Ms Karen
Leslie, Mr Chris
Lewell-Buck, Mrs Emma
Lewis, Clive
Linden, David
Lloyd, Stephen
Lloyd, Tony
Long Bailey, Rebecca
Lucas, Caroline
Lucas, Ian C.
Lynch, Holly
MacNeil, Angus Brendan
Madders, Justin
Mahmood, Mr Khalid
Mahmood, Shabana
Malhotra, Seema
Mann, John
Marsden, Gordon
Martin, Sandy
Maskell, Rachael
Matheson, Christian
Mc Nally, John
McCabe, Steve
McCarthy, Kerry
McDonagh, Siobhain
McDonald, Andy
McDonald, Stewart Malcolm
McDonald, Stuart C.
McDonnell, rh John
McFadden, rh Mr Pat
McGinn, Conor
McGovern, Alison
McInnes, Liz
McKinnell, Catherine
McMahon, Jim
McMorrin, Anna
Mearns, Ian
Miliband, rh Edward
Monaghan, Carol
Moran, Layla
Morden, Jessica
Morgan, rh Nicky
Morgan, Stephen
Morris, Grahame
Murray, Ian
Nandy, Lisa
Newlands, Gavin
Norris, Alex
O'Hara, Brendan
Onasanya, Fiona
Onn, Melanie
Onwurah, Chi
Osamor, Kate
Owen, Albert
Peacock, Stephanie
Pearce, Teresa
Pennycook, Matthew
Perkins, Toby
Phillips, Jess
Phillipson, Bridget
Pidcock, Laura
Platt, Jo
Pollard, Luke
Pound, Stephen
Powell, Lucy
Qureshi, Yasmin
Rashid, Faisal
Rayner, Angela
Reed, Mr Steve
Rees, Christina
Reeves, Ellie
Reeves, Rachel
Reynolds, Jonathan
Rimmer, Ms Marie
Rodda, Matt
Rowley, Danielle
Ruane, Chris
Russell-Moyle, Lloyd
Ryan, rh Joan
Saville Roberts, Liz
Shah, Naz
Sheerman, Mr Barry
Sheppard, Tommy
Sherriff, Paula
Shuker, Mr Gavin
Siddiq, Tulip
Skinner, Mr Dennis
Slaughter, Andy
Smeeth, Ruth
Smith, Angela
Smith, Cat
Smith, Eleanor
Smith, Jeff
Smith, Nick
Smith, Owen
Smyth, Karin
Snell, Gareth
Sobel, Alex
Soubry, rh Anna
Spellar, rh John
Starmer, rh Keir
Stephens, Chris
Stevens, Jo
Stone, Jamie
Streeting, Wes
Sweeney, Mr Paul
Swinson, Jo
Tami, Mark

Thewliss, Alison
Thomas, Gareth
Thomas-Symonds, Nick
Thornberry, rh Emily
Timms, rh Stephen
Trickett, Jon
Turner, Karl
Twigg, Derek
Twigg, Stephen
Twist, Liz
Umunna, Chuka
Vaz, Valerie
Walker, Thelma
Watson, Tom
West, Catherine
Western, Matt
Whitehead, Dr Alan
Whitfield, Martin
Whitford, Dr Philippa
Williams, Hywel
Williams, Dr Paul
Williamson, Chris
Wilson, Phil
Wishart, Pete
Woodcock, John
Yasin, Mohammad
Zeichner, Daniel

Tellers for the Ayes:
Stephen Doughty and Patrick Grady

NOES

Adams, Nigel
Afolami, Bim
Afriyie, Adam
Aldous, Peter
Allan, Lucy
Allen, Heidi
Argar, Edward
Atkins, Victoria
Bacon, Mr Richard
Badenoch, Mrs Kemi
Baker, Mr Steve
Baldwin, Harriett
Barclay, Stephen
Baron, Mr John
Bebb, Guto
Bellingham, Sir Henry
Beresford, Sir Paul
Berry, Jake
Blackman, Bob
Blunt, Crispin
Boles, Nick
Bone, Mr Peter
Bottomley, Sir Peter
Bowie, Andrew
Bradley, Ben
Bradley, rh Karen
Brady, Mr Graham
Brereton, Jack
Bridgen, Andrew
Brine, Steve
Brokenshire, rh James
Bruce, Fiona
Buckland, Robert
Burghart, Alex
Burns, Conor
Burt, rh Alistair
Cairns, rh Alun
Campbell, Mr Gregory
Cartlidge, James
Cash, Sir William
Caulfield, Maria
Chalk, Alex
Chishti, Rehman
Chope, Mr Christopher
Churchill, Jo
Clark, Colin
Clark, rh Greg
Clarke, Mr Simon
Cleverly, James
Clifton-Brown, Geoffrey
Coffey, Dr Thérèse
Collins, Damian
Costa, Alberto
Courts, Robert
Cox, Mr Geoffrey
Crabb, rh Stephen
Crouch, Tracey
Davies, Chris
Davies, David T. C.
Davies, Glyn
Davies, Mims
Davies, Philip
Davis, rh Mr David
Dinenage, Caroline
Djanogly, Mr Jonathan
Docherty, Leo
Dodds, rh Nigel
Donaldson, rh Sir Jeffrey M.
Donelan, Michelle
Dorries, Ms Nadine
Double, Steve
Dowden, Oliver
Doyle-Price, Jackie
Drax, Richard
Duddridge, James
Duguid, David
Duncan, rh Sir Alan
Duncan Smith, rh Mr Iain
Dunne, Mr Philip
Ellis, Michael
Ellwood, rh Mr Tobias
Elphicke, Charlie
Eustice, George
Evans, Mr Nigel
Evennett, rh David
Fabricant, Michael
Fernandes, Suella
Field, rh Mark
Ford, Vicky
Foster, Kevin
Francois, rh Mr Mark
Frazer, Lucy
Freeman, George
Freer, Mike
Fysh, Mr Marcus
Gale, Sir Roger
Garnier, Mark
Gauke, rh Mr David
Ghani, Ms Nusrat
Gibb, rh Nick
Gillan, rh Mrs Cheryl
Girvan, Paul
Glen, John
Goldsmith, Zac
Goodwill, Mr Robert
Gove, rh Michael
Graham, Luke
Graham, Richard
Grant, Bill
Grant, Mrs Helen
Gray, James
Grayling, rh Chris
Green, Chris
Green, rh Damian
Greening, rh Justine
Grieve, rh Mr Dominic
Griffiths, Andrew
Gyimah, Mr Sam
Hair, Kirstene
Halfon, rh Robert
Hall, Luke
Hammond, rh Mr Philip
Hammond, Stephen
Hancock, rh Matt
Hands, rh Greg
Harper, rh Mr Mark
Harrington, Richard
Harris, Rebecca
Harrison, Trudy
Hart, Simon
Hayes, rh Mr John
Heald, rh Sir Oliver
Heappey, James
Heaton-Harris, Chris
Heaton-Jones, Peter
Henderson, Gordon
Herbert, rh Nick
Hinds, Damian
Hoare, Simon
Hollingbery, George
Hollinrake, Kevin
Hollobone, Mr Philip
Holloway, Adam
Howell, John
Huddleston, Nigel
Hughes, Eddie
Hunt, rh Mr Jeremy
Hurd, Mr Nick
Jack, Mr Alister
James, Margot
Javid, rh Sajid
Jayawardena, Mr Ranil
Jenkin, Mr Bernard
Jenrick, Robert
Johnson, rh Boris
Johnson, Dr Caroline
Johnson, Gareth
Johnson, Joseph
Jones, Andrew
Jones, rh Mr David
Jones, Mr Marcus
Kawczynski, Daniel
Keegan, Gillian
Kennedy, Seema
Kerr, Stephen
Knight, rh Sir Greg
Knight, Julian
Kwarteng, Kwasi
Lamont, John
Lancaster, Mark
Latham, Mrs Pauline
Leadsom, rh Andrea
Lee, Dr Phillip
Lefroy, Jeremy
Leigh, Sir Edward
Letwin, rh Sir Oliver
Lewer, Andrew
Lewis, rh Brandon
Lewis, rh Dr Julian
Lidington, rh Mr David
Little Pengelly, Emma
Lopez, Julia
Lopresti, Jack
Lord, Mr Jonathan
Loughton, Tim
Mackinlay, Craig
Maclean, Rachel
Main, Mrs Anne
Mak, Alan
Malthouse, Kit
Mann, Scott
Masterton, Paul
Maynard, Paul
McLoughlin, rh Sir Patrick
McPartland, Stephen
McVey, rh Ms Esther
Menzies, Mark
Mercer, Johnny
Merriman, Huw
Metcalfe, Stephen
Miller, rh Mrs Maria
Milling, Amanda
Mills, Nigel
Milton, rh Anne
Mitchell, rh Mr Andrew
Moore, Damien
Mordaunt, rh Penny
Morris, Anne Marie
Morris, David
Morris, James
Morton, Wendy
Mundell, rh David
Murray, Mrs Sheryll
Murrison, Dr Andrew
Neill, Robert
Newton, Sarah
Nokes, Caroline
Norman, Jesse
O'Brien, Neil
Offord, Dr Matthew
Opperman, Guy
Paisley, Ian
Parish, Neil
Patel, rh Priti
Paterson, rh Mr Owen
Pawsey, Mark
Penning, rh Sir Mike
Penrose, John
Percy, Andrew
Perry, Claire
Philp, Chris
Pincher, Christopher
Pow, Rebecca
Prentis, Victoria
Prisk, Mr Mark
Pritchard, Mark
Pursglove, Tom
Quin, Jeremy
Quince, Will
Raab, Dominic
Redwood, rh John
Rees-Mogg, Mr Jacob
Robertson, Mr Laurence
Robinson, Gavin
Robinson, Mary
Rosindell, Andrew
Ross, Douglas
Rowley, Lee
Rudd, rh Amber
Rutley, David
Sandbach, Antoinette
Scully, Paul

Seely, Mr Bob
Selous, Andrew
Shannon, Jim
Shapps, rh Grant
Sharma, Alok
Shelbrooke, Alec
Simpson, David
Simpson, rh Mr Keith
Skidmore, Chris
Smith, Chloe
Smith, Henry
Smith, rh Julian
Smith, Royston
Soames, rh Sir Nicholas
Spelman, rh Dame Caroline
Spencer, Mark
Stevenson, John
Stewart, Bob
Stewart, Iain
Stewart, Rory
Stride, rh Mel
Stuart, Graham
Sturdy, Julian
Sunak, Rishi
Swayne, rh Sir Desmond
Swire, rh Sir Hugo
Syms, Sir Robert
Thomas, Derek
Thomson, Ross
Throup, Maggie
Tolhurst, Kelly
Tomlinson, Justin
Tomlinson, Michael
Tracey, Craig
Tredinnick, David
Trevelyan, Mrs Anne-Marie
Truss, rh Elizabeth
Tugendhat, Tom
Vaizey, rh Mr Edward
Vara, Mr Shailesh
Vickers, Martin
Villiers, rh Theresa
Walker, Mr Charles
Walker, Mr Robin
Wallace, rh Mr Ben
Warburton, David
Warman, Matt
Watling, Giles
Whately, Helen
Wheeler, Mrs Heather
Whittaker, Craig
Whittingdale, rh Mr John
Wiggin, Bill
Williamson, rh Gavin
Wilson, Sammy
Wollaston, Dr Sarah
Wood, Mike
Wragg, Mr William
Wright, rh Jeremy
Zahawi, Nadhim

Tellers for the Noes:
Stuart Andrew and Andrew Stephenson

Question accordingly negatived.

Amendment proposed: 124, page 6, line 10, at end insert—

"(ca) weaken, remove or replace any requirement of law in effect in the United Kingdom place immediately before exit day which, in the opinion of the Minister, was a requirement up to exit day of the United Kingdom's membership of the single market,". *—(Tom Brake.)*

This amendment is intended to prevent the regulation-making powers being used to create barriers to the UK's continued membership of the single market.

The Committee divided: Ayes 93, Noes 215.

Division No. 65] [9.38 pm

AYES

Alexander, Heidi
Ali, Rushanara
Bailey, Mr Adrian
Bardell, Hannah
Black, Mhairi
Blackford, rh Ian
Blackman, Kirsty
Bradshaw, rh Mr Ben
Brake, rh Tom
Brock, Deidre
Brown, Alan
Buck, Ms Karen
Cable, rh Sir Vince
Cadbury, Ruth
Cameron, Dr Lisa
Chapman, Douglas
Cherry, Joanna
Clarke, rh Mr Kenneth
Clwyd, rh Ann
Coffey, Ann
Cowan, Ronnie
Coyle, Neil
Creagh, Mary
Creasy, Stella
Davey, rh Sir Edward
Davies, Geraint
Day, Martyn
Docherty-Hughes, Martin
Ellman, Mrs Louise
Farrelly, Paul
Farron, Tim
Flynn, Paul
Gapes, Mike
Gethins, Stephen
Gibson, Patricia
Grady, Patrick
Grant, Peter
Gray, Neil
Green, Kate
Grogan, John
Hayes, Helen
Hendry, Drew
Hillier, Meg
Hobhouse, Wera
Hodge, rh Dame Margaret
Hosie, Stewart
Huq, Dr Rupa
Jardine, Christine
Jones, Darren
Jones, Susan Elan
Kendall, Liz
Kyle, Peter
Lake, Ben
Lammy, rh Mr David
Law, Chris
Leslie, Mr Chris
Linden, David
Lloyd, Stephen
Lucas, Caroline
MacNeil, Angus Brendan
Mc Nally, John
McCarthy, Kerry
McDonald, Stewart Malcolm
McDonald, Stuart C.
McFadden, rh Mr Pat
McGovern, Alison
McKinnell, Catherine
Monaghan, Carol
Moran, Layla
Murray, Ian
Newlands, Gavin
O'Hara, Brendan
Owen, Albert
Saville Roberts, Liz
Sheerman, Mr Barry
Sheppard, Tommy
Shuker, Mr Gavin
Slaughter, Andy
Smith, Angela
Soubry, rh Anna
Stephens, Chris
Stevens, Jo
Stone, Jamie
Streeting, Wes
Swinson, Jo
Thewliss, Alison
Thomas, Gareth
Umunna, Chuka
West, Catherine
Whitford, Dr Philippa
Williams, Hywel
Wishart, Pete
Zeichner, Daniel

Tellers for the Ayes:
Mr Alistair Carmichael and Norman Lamb

NOES

Adams, Nigel
Afolami, Bim
Afriyie, Adam
Aldous, Peter
Allan, Lucy
Allen, Heidi
Argar, Edward
Atkins, Victoria
Bacon, Mr Richard
Badenoch, Mrs Kemi
Baker, Mr Steve
Baldwin, Harriett
Barclay, Stephen
Baron, Mr John
Bebb, Guto
Bellingham, Sir Henry
Beresford, Sir Paul
Berry, Jake
Blackman, Bob
Blunt, Crispin
Boles, Nick
Bone, Mr Peter
Bottomley, Sir Peter
Bowie, Andrew
Bradley, Ben
Bradley, rh Karen
Brady, Mr Graham
Brereton, Jack
Bridgen, Andrew
Brine, Steve
Brokenshire, rh James
Bruce, Fiona
Buckland, Robert
Burghart, Alex
Burns, Conor
Burt, rh Alistair
Cairns, rh Alun
Campbell, Mr Gregory
Cartlidge, James
Cash, Sir William
Caulfield, Maria
Chalk, Alex
Chishti, Rehman
Chope, Mr Christopher
Churchill, Jo
Clark, Colin
Clark, rh Greg
Clarke, Mr Simon
Cleverly, James
Clifton-Brown, Geoffrey
Coffey, Dr Thérèse
Collins, Damian
Costa, Alberto
Courts, Robert
Cox, Mr Geoffrey
Crabb, rh Stephen
Crouch, Tracey
Davies, Chris
Davies, David T. C.
Davies, Glyn
Davies, Mims
Davies, Philip
Davis, rh Mr David
Dinenage, Caroline
Djanogly, Mr Jonathan
Docherty, Leo
Dodds, rh Nigel
Donaldson, rh Sir Jeffrey M.
Donelan, Michelle
Dorries, Ms Nadine
Double, Steve
Dowden, Oliver
Doyle-Price, Jackie
Drax, Richard
Duddridge, James
Duguid, David
Duncan, rh Sir Alan
Duncan Smith, rh Mr Iain
Dunne, Mr Philip
Ellis, Michael
Ellwood, rh Mr Tobias
Elphicke, Charlie
Eustice, George
Evans, Mr Nigel
Evennett, rh David
Fabricant, Michael

Fernandes, Suella
Field, rh Mark
Ford, Vicky
Foster, Kevin
Francois, rh Mr Mark
Frazer, Lucy
Freeman, George
Freer, Mike
Fysh, Mr Marcus
Gale, Sir Roger
Garnier, Mark
Gauke, rh Mr David
Ghani, Ms Nusrat
Gibb, rh Nick
Gillan, rh Mrs Cheryl
Girvan, Paul
Glen, John
Goldsmith, Zac
Goodwill, Mr Robert
Gove, rh Michael
Graham, Luke
Graham, Richard
Grant, Bill
Grant, Mrs Helen
Gray, James
Grayling, rh Chris
Green, Chris
Green, rh Damian
Greening, rh Justine
Grieve, rh Mr Dominic
Griffiths, Andrew
Gyimah, Mr Sam
Hair, Kirstene
Halfon, rh Robert
Hall, Luke
Hammond, rh Mr Philip
Hammond, Stephen
Hancock, rh Matt
Hands, rh Greg
Harper, rh Mr Mark
Harrington, Richard
Harris, Rebecca
Harrison, Trudy
Hart, Simon
Hayes, rh Mr John
Heald, rh Sir Oliver
Heappey, James
Heaton-Harris, Chris
Heaton-Jones, Peter
Henderson, Gordon
Herbert, rh Nick
Hinds, Damian
Hoare, Simon
Hoey, Kate
Hollingbery, George
Hollinrake, Kevin
Hollobone, Mr Philip
Holloway, Adam
Hopkins, Kelvin
Howell, John
Huddleston, Nigel
Hughes, Eddie
Hunt, rh Mr Jeremy
Hurd, Mr Nick
Jack, Mr Alister
James, Margot
Javid, rh Sajid
Jayawardena, Mr Ranil
Jenkin, Mr Bernard
Jenrick, Robert
Johnson, rh Boris
Johnson, Dr Caroline
Johnson, Gareth
Johnson, Joseph
Jones, Andrew
Jones, rh Mr David
Jones, Mr Marcus
Kawczynski, Daniel
Keegan, Gillian
Kennedy, Seema
Kerr, Stephen
Knight, rh Sir Greg
Knight, Julian
Kwarteng, Kwasi
Lamont, John
Lancaster, Mark
Latham, Mrs Pauline
Leadsom, rh Andrea
Lee, Dr Phillip
Lefroy, Jeremy
Leigh, Sir Edward
Letwin, rh Sir Oliver
Lewer, Andrew
Lewis, rh Brandon
Lewis, rh Dr Julian
Lidington, rh Mr David
Little Pengelly, Emma
Lopez, Julia
Lopresti, Jack
Lord, Mr Jonathan
Loughton, Tim
Mackinlay, Craig
Maclean, Rachel
Main, Mrs Anne
Mak, Alan
Malthouse, Kit
Mann, Scott
Masterton, Paul
Maynard, Paul
McLoughlin, rh Sir Patrick
McPartland, Stephen
McVey, rh Ms Esther
Menzies, Mark
Mercer, Johnny
Merriman, Huw
Metcalfe, Stephen
Miller, rh Mrs Maria
Milling, Amanda
Mills, Nigel
Milton, rh Anne
Mitchell, rh Mr Andrew
Moore, Damien
Mordaunt, rh Penny
Morgan, rh Nicky
Morris, Anne Marie
Morris, David
Morris, James
Morton, Wendy
Mundell, rh David
Murray, Mrs Sheryll
Murrison, Dr Andrew
Neill, Robert
Newton, Sarah
Nokes, Caroline
Norman, Jesse
O'Brien, Neil
Offord, Dr Matthew
Opperman, Guy
Paisley, Ian
Parish, Neil
Patel, rh Priti
Paterson, rh Mr Owen
Pawsey, Mark
Penning, rh Sir Mike
Penrose, John
Percy, Andrew
Perry, Claire
Philp, Chris
Pincher, Christopher
Pow, Rebecca
Prentis, Victoria
Prisk, Mr Mark
Pritchard, Mark
Pursglove, Tom
Quin, Jeremy
Quince, Will
Raab, Dominic
Redwood, rh John
Rees-Mogg, Mr Jacob
Robertson, Mr Laurence
Robinson, Gavin
Robinson, Mary
Rosindell, Andrew
Ross, Douglas
Rowley, Lee
Rudd, rh Amber
Rutley, David
Sandbach, Antoinette
Scully, Paul
Seely, Mr Bob
Selous, Andrew
Shannon, Jim
Shapps, rh Grant
Sharma, Alok
Shelbrooke, Alec
Simpson, David
Simpson, rh Mr Keith
Skidmore, Chris
Smith, Chloe
Smith, Henry
Smith, rh Julian
Smith, Royston
Soames, rh Sir Nicholas
Spelman, rh Dame Caroline
Spencer, Mark
Stevenson, John
Stewart, Bob
Stewart, Iain
Stewart, Rory
Stride, rh Mel
Stuart, Graham
Sturdy, Julian
Sunak, Rishi
Swayne, rh Sir Desmond
Swire, rh Sir Hugo
Syms, Sir Robert
Thomas, Derek
Thomson, Ross
Throup, Maggie
Tolhurst, Kelly
Tomlinson, Justin
Tomlinson, Michael
Tracey, Craig
Tredinnick, David
Trevelyan, Mrs Anne-Marie
Truss, rh Elizabeth
Tugendhat, Tom
Vaizey, rh Mr Edward
Vara, Mr Shailesh
Vickers, Martin
Villiers, rh Theresa
Walker, Mr Charles
Walker, Mr Robin
Wallace, rh Mr Ben
Warburton, David
Warman, Matt
Watling, Giles
Whately, Helen
Wheeler, Mrs Heather
Whittaker, Craig
Whittingdale, rh Mr John
Wiggin, Bill
Williamson, rh Gavin
Wilson, Sammy
Wollaston, Dr Sarah
Wood, Mike
Wragg, Mr William
Wright, rh Jeremy
Zahawi, Nadhim

Tellers for the Noes:
Stuart Andrew and
Andrew Stephenson

Question accordingly negatived.

Amendment proposed: 158, page 6, line 13, after "it", insert—

"() modify the Scotland Act 1998 or the Government of Wales Act 2006," —*(Stephen Doughty.)*

This amendment would prevent the powers of a Minister of the Crown under Clause 7 of the Bill to fix problems in retained EU law from being exercised to amend the Scotland Act 1998 or the Government of Wales Act 2006.

Question put, That the amendment be made.

The Committee divided: Ayes 291, Noes 315.

Division No. 66] [9.50 pm

AYES

Abrahams, Debbie
Ali, Rushanara
Allin-Khan, Dr Rosena
Amesbury, Mike
Antoniazzi, Tonia
Ashworth, Jonathan
Austin, Ian
Bailey, Mr Adrian
Bardell, Hannah
Barron, rh Sir Kevin
Beckett, rh Margaret
Benn, rh Hilary
Betts, Mr Clive
Black, Mhairi
Blackford, rh Ian
Blackman, Kirsty
Blackman-Woods, Dr Roberta
Blomfield, Paul
Brabin, Tracy
Bradshaw, rh Mr Ben

Brake, rh Tom
Brennan, Kevin
Brock, Deidre
Brown, Alan
Brown, Lyn
Brown, rh Mr Nicholas
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Richard
Butler, Dawn
Byrne, rh Liam
Cable, rh Sir Vince
Cadbury, Ruth
Cameron, Dr Lisa
Campbell, rh Mr Alan
Campbell, Mr Ronnie
Carden, Dan
Carmichael, rh Mr Alistair
Chapman, Douglas
Chapman, Jenny
Charalambous, Bambos
Cherry, Joanna
Clwyd, rh Ann
Coaker, Vernon
Coffey, Ann
Cooper, Julie
Cooper, Rosie
Cooper, rh Yvette
Corbyn, rh Jeremy
Cowan, Ronnie
Coyle, Neil
Creagh, Mary
Creasy, Stella
Cruddas, Jon
Cryer, John
Cummins, Judith
Cunningham, Alex
Cunningham, Mr Jim
Dakin, Nic
Davey, rh Sir Edward
David, Wayne
Davies, Geraint
Day, Martyn
De Cordova, Marsha
De Piero, Gloria
Debbonaire, Thangam
Dent Coad, Emma
Dhesi, Mr Tanmanjeet Singh
Docherty-Hughes, Martin
Dodds, Anneliese
Doughty, Stephen
Dowd, Peter
Drew, Dr David
Dromey, Jack
Duffield, Rosie
Eagle, Ms Angela
Eagle, Maria
Efford, Clive
Elliott, Julie
Ellman, Mrs Louise
Elmore, Chris
Esterson, Bill
Evans, Chris
Farrelly, Paul
Farron, Tim
Fitzpatrick, Jim
Fletcher, Colleen
Flint, rh Caroline
Flynn, Paul
Fovargue, Yvonne
Foxcroft, Vicky
Frith, James
Furniss, Gill
Gaffney, Hugh
Gapes, Mike
Gardiner, Barry
George, Ruth
Gethins, Stephen
Gibson, Patricia
Gill, Preet Kaur
Glindon, Mary
Godsiff, Mr Roger
Goodman, Helen
Grant, Peter
Gray, Neil
Green, Kate
Greenwood, Lilian
Greenwood, Margaret
Griffith, Nia
Grogan, John
Gwynne, Andrew
Haigh, Louise
Hamilton, Fabian
Hardy, Emma
Harman, rh Ms Harriet
Harris, Carolyn
Hayes, Helen
Hayman, Sue
Healey, rh John
Hendrick, Mr Mark
Hendry, Drew
Hepburn, Mr Stephen
Hermon, Lady
Hill, Mike
Hillier, Meg
Hobhouse, Wera
Hodge, rh Dame Margaret
Hodgson, Mrs Sharon
Hollern, Kate
Hopkins, Kelvin
Hosie, Stewart
Howarth, rh Mr George
Huq, Dr Rupa
Hussain, Imran
Jardine, Christine
Jarvis, Dan
Johnson, Diana
Jones, Darren
Jones, Gerald
Jones, Graham P.
Jones, Helen
Jones, Mr Kevan
Jones, Sarah
Jones, Susan Elan
Kane, Mike
Keeley, Barbara
Kendall, Liz
Khan, Afzal
Killen, Ged
Kinnock, Stephen
Kyle, Peter
Laird, Lesley
Lake, Ben
Lamb, rh Norman
Lammy, rh Mr David
Lavery, Ian
Law, Chris
Lee, Ms Karen
Leslie, Mr Chris
Lewell-Buck, Mrs Emma
Lewis, Clive
Linden, David
Lloyd, Stephen
Lloyd, Tony
Long Bailey, Rebecca
Lucas, Caroline
Lucas, Ian C.
Lynch, Holly
MacNeil, Angus Brendan
Madders, Justin
Mahmood, Mr Khalid
Mahmood, Shabana
Malhotra, Seema
Mann, John
Marsden, Gordon
Martin, Sandy
Maskell, Rachael
Matheson, Christian
Mc Nally, John
McCabe, Steve
McCarthy, Kerry
McDonagh, Siobhain
McDonald, Andy
McDonald, Stewart Malcolm
McDonald, Stuart C.
McDonnell, rh John
McFadden, rh Mr Pat
McGinn, Conor
McGovern, Alison
McInnes, Liz
McKinnell, Catherine
McMahon, Jim
McMorrin, Anna
Mearns, Ian
Miliband, rh Edward
Monaghan, Carol
Moran, Layla
Morden, Jessica
Morgan, Stephen
Morris, Grahame
Murray, Ian
Nandy, Lisa
Newlands, Gavin
Norris, Alex
O'Hara, Brendan
Onasanya, Fiona
Onn, Melanie
Onwurah, Chi
Osamor, Kate
Owen, Albert
Peacock, Stephanie
Pearce, Teresa
Pennycook, Matthew
Perkins, Toby
Phillips, Jess
Phillipson, Bridget
Pidcock, Laura
Platt, Jo
Pollard, Luke
Pound, Stephen
Powell, Lucy
Qureshi, Yasmin
Rashid, Faisal
Rayner, Angela
Reed, Mr Steve
Rees, Christina
Reeves, Ellie
Reeves, Rachel
Reynolds, Jonathan
Rimmer, Ms Marie
Rodda, Matt
Rowley, Danielle
Ruane, Chris
Russell-Moyle, Lloyd
Ryan, rh Joan
Saville Roberts, Liz
Shah, Naz
Sheerman, Mr Barry
Sheppard, Tommy
Sherriff, Paula
Shuker, Mr Gavin
Siddiq, Tulip
Skinner, Mr Dennis
Slaughter, Andy
Smeeth, Ruth
Smith, Angela
Smith, Cat
Smith, Eleanor
Smith, Jeff
Smith, Nick
Smith, Owen
Smyth, Karin
Snell, Gareth
Sobel, Alex
Spellar, rh John
Starmer, rh Keir
Stephens, Chris
Stevens, Jo
Stone, Jamie
Streeting, Wes
Sweeney, Mr Paul
Swinson, Jo
Tami, Mark
Thewliss, Alison
Thomas, Gareth
Thomas-Symonds, Nick
Thornberry, rh Emily
Timms, rh Stephen
Trickett, Jon
Turner, Karl
Twigg, Derek
Twigg, Stephen
Twist, Liz
Umunna, Chuka
Vaz, Valerie
Walker, Thelma
Watson, Tom
West, Catherine
Western, Matt
Whitehead, Dr Alan
Whitfield, Martin
Whitford, Dr Philippa
Williams, Hywel
Williams, Dr Paul
Williamson, Chris
Wilson, Phil
Wishart, Pete
Woodcock, John
Yasin, Mohammad
Zeichner, Daniel

Tellers for the Ayes:
Heidi Alexander and Patrick Grady

NOES

Adams, Nigel
Afolami, Bim
Afriyie, Adam
Aldous, Peter
Allan, Lucy
Allen, Heidi

Argar, Edward
Atkins, Victoria
Bacon, Mr Richard
Badenoch, Mrs Kemi
Baker, Mr Steve
Baldwin, Harriett
Barclay, Stephen
Baron, Mr John
Bebb, Guto
Bellingham, Sir Henry
Beresford, Sir Paul
Berry, Jake
Blackman, Bob
Blunt, Crispin
Boles, Nick
Bone, Mr Peter
Bottomley, Sir Peter
Bowie, Andrew
Bradley, Ben
Bradley, rh Karen
Brady, Mr Graham
Brereton, Jack
Bridgen, Andrew
Brine, Steve
Brokenshire, rh James
Bruce, Fiona
Buckland, Robert
Burghart, Alex
Burns, Conor
Burt, rh Alistair
Cairns, rh Alun
Campbell, Mr Gregory
Cartlidge, James
Cash, Sir William
Caulfield, Maria
Chalk, Alex
Chishti, Rehman
Chope, Mr Christopher
Churchill, Jo
Clark, Colin
Clark, rh Greg
Clarke, rh Mr Kenneth
Clarke, Mr Simon
Cleverly, James
Clifton-Brown, Geoffrey
Coffey, Dr Thérèse
Collins, Damian
Costa, Alberto
Courts, Robert
Cox, Mr Geoffrey
Crabb, rh Stephen
Crouch, Tracey
Davies, Chris
Davies, David T. C.
Davies, Glyn
Davies, Mims
Davies, Philip
Davis, rh Mr David
Dinenage, Caroline
Djanogly, Mr Jonathan
Docherty, Leo
Dodds, rh Nigel
Donaldson, rh Sir Jeffrey M.
Donelan, Michelle
Dorries, Ms Nadine
Double, Steve
Dowden, Oliver
Doyle-Price, Jackie
Drax, Richard
Duddridge, James
Duguid, David
Duncan, rh Sir Alan
Duncan Smith, rh Mr Iain
Dunne, Mr Philip
Ellis, Michael
Ellwood, rh Mr Tobias
Elphicke, Charlie
Eustice, George
Evans, Mr Nigel
Evennett, rh David
Fabricant, Michael
Fernandes, Suella
Field, rh Mark
Ford, Vicky
Foster, Kevin
Francois, rh Mr Mark
Frazer, Lucy
Freeman, George
Freer, Mike
Fysh, Mr Marcus
Gale, Sir Roger
Garnier, Mark
Gauke, rh Mr David
Ghani, Ms Nusrat
Gibb, rh Nick
Gillan, rh Mrs Cheryl
Girvan, Paul
Glen, John
Goldsmith, Zac
Goodwill, Mr Robert
Gove, rh Michael
Graham, Luke
Graham, Richard
Grant, Bill
Grant, Mrs Helen
Gray, James
Grayling, rh Chris
Green, Chris
Green, rh Damian
Greening, rh Justine
Grieve, rh Mr Dominic
Griffiths, Andrew
Gyimah, Mr Sam
Hair, Kirstene
Halfon, rh Robert
Hall, Luke
Hammond, rh Mr Philip
Hammond, Stephen
Hancock, rh Matt
Hands, rh Greg
Harper, rh Mr Mark
Harrington, Richard
Harris, Rebecca
Harrison, Trudy
Hart, Simon
Hayes, rh Mr John
Heald, rh Sir Oliver
Heappey, James
Heaton-Harris, Chris
Heaton-Jones, Peter
Henderson, Gordon
Herbert, rh Nick
Hinds, Damian
Hoare, Simon
Hollingbery, George
Hollinrake, Kevin
Hollobone, Mr Philip
Holloway, Adam
Howell, John
Huddleston, Nigel
Hughes, Eddie
Hunt, rh Mr Jeremy
Hurd, Mr Nick
Jack, Mr Alister
James, Margot
Javid, rh Sajid
Jayawardena, Mr Ranil
Jenkin, Mr Bernard
Jenrick, Robert
Johnson, rh Boris
Johnson, Dr Caroline
Johnson, Gareth
Johnson, Joseph
Jones, Andrew
Jones, rh Mr David
Jones, Mr Marcus
Kawczynski, Daniel
Keegan, Gillian
Kennedy, Seema
Kerr, Stephen
Knight, rh Sir Greg
Knight, Julian
Kwarteng, Kwasi
Lamont, John
Lancaster, Mark
Latham, Mrs Pauline
Leadsom, rh Andrea
Lee, Dr Phillip
Lefroy, Jeremy
Leigh, Sir Edward
Letwin, rh Sir Oliver
Lewer, Andrew
Lewis, rh Brandon
Lewis, rh Dr Julian
Lidington, rh Mr David
Little Pengelly, Emma
Lopez, Julia
Lopresti, Jack
Lord, Mr Jonathan
Loughton, Tim
Mackinlay, Craig
Maclean, Rachel
Main, Mrs Anne
Mak, Alan
Malthouse, Kit
Mann, Scott
Masterton, Paul
Maynard, Paul
McLoughlin, rh Sir Patrick
McPartland, Stephen
McVey, rh Ms Esther
Menzies, Mark
Mercer, Johnny
Merriman, Huw
Metcalfe, Stephen
Miller, rh Mrs Maria
Milling, Amanda
Mills, Nigel
Milton, rh Anne
Mitchell, rh Mr Andrew
Moore, Damien
Mordaunt, rh Penny
Morgan, rh Nicky
Morris, Anne Marie
Morris, David
Morris, James
Morton, Wendy
Mundell, rh David
Murray, Mrs Sheryll
Murrison, Dr Andrew
Neill, Robert
Newton, Sarah
Nokes, Caroline
Norman, Jesse
O'Brien, Neil
Offord, Dr Matthew
Opperman, Guy
Paisley, Ian
Parish, Neil
Patel, rh Priti
Paterson, rh Mr Owen
Pawsey, Mark
Penning, rh Sir Mike
Penrose, John
Percy, Andrew
Perry, Claire
Philp, Chris
Pincher, Christopher
Pow, Rebecca
Prentis, Victoria
Prisk, Mr Mark
Pritchard, Mark
Pursglove, Tom
Quin, Jeremy
Quince, Will
Raab, Dominic
Redwood, rh John
Rees-Mogg, Mr Jacob
Robertson, Mr Laurence
Robinson, Gavin
Robinson, Mary
Rosindell, Andrew
Ross, Douglas
Rowley, Lee
Rudd, rh Amber
Rutley, David
Sandbach, Antoinette
Scully, Paul
Seely, Mr Bob
Selous, Andrew
Shannon, Jim
Shapps, rh Grant
Sharma, Alok
Shelbrooke, Alec
Simpson, David
Simpson, rh Mr Keith
Skidmore, Chris
Smith, Chloe
Smith, Henry
Smith, rh Julian
Smith, Royston
Soames, rh Sir Nicholas
Soubry, rh Anna
Spelman, rh Dame Caroline
Spencer, Mark
Stevenson, John
Stewart, Bob
Stewart, Iain
Stewart, Rory
Stride, rh Mel
Stuart, Graham
Sturdy, Julian
Sunak, Rishi
Swayne, rh Sir Desmond
Swire, rh Sir Hugo
Syms, Sir Robert
Thomas, Derek
Thomson, Ross
Throup, Maggie
Tolhurst, Kelly
Tomlinson, Justin
Tomlinson, Michael
Tracey, Craig
Tredinnick, David
Trevelyan, Mrs Anne-Marie
Truss, rh Elizabeth
Tugendhat, Tom
Vaizey, rh Mr Edward

Vara, Mr Shailesh
Vickers, Martin
Villiers, rh Theresa
Walker, Mr Charles
Walker, Mr Robin
Wallace, rh Mr Ben
Warburton, David
Warman, Matt
Watling, Giles
Whately, Helen
Wheeler, Mrs Heather
Whittaker, Craig
Whittingdale, rh Mr John
Wiggin, Bill
Williamson, rh Gavin
Wilson, Sammy
Wollaston, Dr Sarah
Wood, Mike
Wragg, Mr William
Wright, rh Jeremy
Zahawi, Nadhim

Tellers for the Noes:
Andrew Stephenson and Stuart Andrew

Question accordingly negatived.

Amendment proposed: 25, in clause 7, page 6, line 18, at end insert—

"(g) remove or reduce any protections currently conferred upon individuals, groups or the natural environment,

(h) prevent any person from continuing to exercise a right that they can currently exercise,

(i) amend, repeal or revoke the Equality Act 2010 or any subordinate legislation made under that Act." *—(Matthew Pennycook.)*

This amendment would prevent the Government's using delegated powers under Clause 7 to reduce rights or protections.

Question put, That the amendment be made.

The Committee divided: Ayes 292, Noes 314.

Division No. 67] [10.4 pm

AYES

Abbott, rh Ms Diane
Abrahams, Debbie
Alexander, Heidi
Ali, Rushanara
Allin-Khan, Dr Rosena
Amesbury, Mike
Antoniazzi, Tonia
Ashworth, Jonathan
Austin, Ian
Bailey, Mr Adrian
Bardell, Hannah
Barron, rh Sir Kevin
Beckett, rh Margaret
Benn, rh Hilary
Betts, Mr Clive
Black, Mhairi
Blackford, rh Ian
Blackman, Kirsty
Blackman-Woods, Dr Roberta
Blomfield, Paul
Brabin, Tracy
Bradshaw, rh Mr Ben
Brake, rh Tom
Brennan, Kevin
Brock, Deidre
Brown, Alan
Brown, Lyn
Brown, rh Mr Nicholas
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Richard
Butler, Dawn
Byrne, rh Liam
Cable, rh Sir Vince
Cadbury, Ruth
Cameron, Dr Lisa
Campbell, rh Mr Alan
Campbell, Mr Ronnie
Carden, Dan
Carmichael, rh Mr Alistair
Chapman, Douglas
Chapman, Jenny
Charalambous, Bambos
Cherry, Joanna
Clarke, rh Mr Kenneth
Clwyd, rh Ann
Coaker, Vernon
Coffey, Ann
Cooper, Julie
Cooper, Rosie
Cooper, rh Yvette
Corbyn, rh Jeremy
Cowan, Ronnie
Coyle, Neil
Creagh, Mary
Creasy, Stella
Cruddas, Jon
Cryer, John
Cummins, Judith
Cunningham, Alex
Cunningham, Mr Jim
Dakin, Nic
Davey, rh Sir Edward
David, Wayne
Davies, Geraint
Day, Martyn
De Cordova, Marsha
De Piero, Gloria
Dent Coad, Emma
Dhesi, Mr Tanmanjeet Singh
Docherty-Hughes, Martin
Dodds, Anneliese
Doughty, Stephen
Dowd, Peter
Drew, Dr David
Dromey, Jack
Duffield, Rosie
Eagle, Ms Angela
Eagle, Maria
Efford, Clive
Elliott, Julie
Ellman, Mrs Louise
Elmore, Chris
Esterson, Bill
Evans, Chris
Farrelly, Paul
Farron, Tim
Fitzpatrick, Jim
Fletcher, Colleen
Flint, rh Caroline
Flynn, Paul
Fovargue, Yvonne
Foxcroft, Vicky
Frith, James
Furniss, Gill
Gaffney, Hugh
Gapes, Mike
Gardiner, Barry
George, Ruth
Gethins, Stephen
Gibson, Patricia
Gill, Preet Kaur
Glindon, Mary
Godsiff, Mr Roger
Goodman, Helen
Grady, Patrick
Grant, Peter
Gray, Neil
Green, Kate
Greenwood, Lilian
Greenwood, Margaret
Griffith, Nia
Grogan, John
Gwynne, Andrew
Haigh, Louise
Hamilton, Fabian
Hardy, Emma
Harman, rh Ms Harriet
Harris, Carolyn
Hayes, Helen
Hayman, Sue
Healey, rh John
Hendrick, Mr Mark
Hendry, Drew
Hepburn, Mr Stephen
Hermon, Lady
Hill, Mike
Hillier, Meg
Hobhouse, Wera
Hodge, rh Dame Margaret
Hodgson, Mrs Sharon
Hollern, Kate
Hosie, Stewart
Howarth, rh Mr George
Huq, Dr Rupa
Hussain, Imran
Jardine, Christine
Jarvis, Dan
Johnson, Diana
Jones, Darren
Jones, Gerald
Jones, Graham P.
Jones, Helen
Jones, Mr Kevan
Jones, Sarah
Jones, Susan Elan
Kane, Mike
Keeley, Barbara
Kendall, Liz
Khan, Afzal
Killen, Ged
Kinnock, Stephen
Kyle, Peter
Laird, Lesley
Lake, Ben
Lamb, rh Norman
Lammy, rh Mr David
Lavery, Ian
Law, Chris
Lee, Ms Karen
Leslie, Mr Chris
Lewell-Buck, Mrs Emma
Lewis, Clive
Linden, David
Lloyd, Stephen
Lloyd, Tony
Long Bailey, Rebecca
Lucas, Caroline
Lucas, Ian C.
Lynch, Holly
MacNeil, Angus Brendan
Madders, Justin
Mahmood, Mr Khalid
Mahmood, Shabana
Malhotra, Seema
Mann, John
Marsden, Gordon
Martin, Sandy
Maskell, Rachael
Matheson, Christian
Mc Nally, John
McCabe, Steve
McCarthy, Kerry
McDonagh, Siobhain
McDonald, Andy
McDonald, Stewart Malcolm
McDonald, Stuart C.
McDonnell, rh John
McFadden, rh Mr Pat
McGinn, Conor
McGovern, Alison
McInnes, Liz
McKinnell, Catherine
McMahon, Jim
McMorrin, Anna
Mearns, Ian
Miliband, rh Edward
Monaghan, Carol
Moran, Layla
Morden, Jessica
Morgan, Stephen
Morris, Grahame
Murray, Ian
Nandy, Lisa
Newlands, Gavin
Norris, Alex
O'Hara, Brendan
Onasanya, Fiona
Onn, Melanie
Onwurah, Chi
Osamor, Kate
Owen, Albert
Peacock, Stephanie
Pearce, Teresa
Pennycook, Matthew
Perkins, Toby
Phillips, Jess
Phillipson, Bridget
Pidcock, Laura
Platt, Jo
Pollard, Luke

Pound, Stephen
Powell, Lucy
Qureshi, Yasmin
Rashid, Faisal
Rayner, Angela
Reed, Mr Steve
Rees, Christina
Reeves, Ellie
Reeves, Rachel
Reynolds, Jonathan
Rimmer, Ms Marie
Rodda, Matt
Rowley, Danielle
Ruane, Chris
Russell-Moyle, Lloyd
Ryan, rh Joan
Saville Roberts, Liz
Shah, Naz
Sheerman, Mr Barry
Sheppard, Tommy
Sherriff, Paula
Shuker, Mr Gavin
Siddiq, Tulip
Skinner, Mr Dennis
Slaughter, Andy
Smeeth, Ruth
Smith, Angela
Smith, Cat
Smith, Eleanor
Smith, Nick
Smith, Owen
Smyth, Karin
Snell, Gareth
Sobel, Alex
Spellar, rh John
Starmer, rh Keir
Stephens, Chris
Stevens, Jo
Stone, Jamie
Streeting, Wes
Sweeney, Mr Paul
Swinson, Jo
Tami, Mark
Thewliss, Alison
Thomas, Gareth
Thomas-Symonds, Nick
Thornberry, rh Emily
Timms, rh Stephen
Trickett, Jon
Turner, Karl
Twigg, Derek
Twigg, Stephen
Twist, Liz
Umunna, Chuka
Vaz, Valerie
Walker, Thelma
Watson, Tom
West, Catherine
Western, Matt
Whitehead, Dr Alan
Whitfield, Martin
Whitford, Dr Philippa
Williams, Hywel
Williams, Dr Paul
Williamson, Chris
Wilson, Phil
Wishart, Pete
Woodcock, John
Yasin, Mohammad
Zeichner, Daniel

Tellers for the Ayes:
Thangam Debbonaire and Jeff Smith

NOES

Adams, Nigel
Afolami, Bim
Afriyie, Adam
Aldous, Peter
Allan, Lucy
Allen, Heidi
Argar, Edward
Atkins, Victoria
Bacon, Mr Richard
Badenoch, Mrs Kemi
Baker, Mr Steve
Baldwin, Harriett
Barclay, Stephen
Baron, Mr John
Bebb, Guto
Bellingham, Sir Henry
Beresford, Sir Paul
Berry, Jake
Blackman, Bob
Blunt, Crispin
Boles, Nick
Bone, Mr Peter
Bottomley, Sir Peter
Bowie, Andrew
Bradley, Ben
Bradley, rh Karen
Brady, Mr Graham
Brereton, Jack
Bridgen, Andrew
Brine, Steve
Brokenshire, rh James
Bruce, Fiona
Buckland, Robert
Burghart, Alex
Burns, Conor
Burt, rh Alistair
Cairns, rh Alun
Campbell, Mr Gregory
Cartlidge, James
Cash, Sir William
Caulfield, Maria
Chalk, Alex
Chishti, Rehman
Chope, Mr Christopher
Churchill, Jo
Clark, Colin
Clark, rh Greg
Clarke, Mr Simon
Cleverly, James
Clifton-Brown, Geoffrey
Coffey, Dr Thérèse
Collins, Damian
Costa, Alberto
Courts, Robert
Cox, Mr Geoffrey
Crabb, rh Stephen
Crouch, Tracey
Davies, Chris
Davies, David T. C.
Davies, Glyn
Davies, Mims
Davies, Philip
Davis, rh Mr David
Dinenage, Caroline
Djanogly, Mr Jonathan
Docherty, Leo
Dodds, rh Nigel
Donaldson, rh Sir Jeffrey M.
Donelan, Michelle
Dorries, Ms Nadine
Double, Steve
Dowden, Oliver
Doyle-Price, Jackie
Drax, Richard
Duddridge, James
Duguid, David
Duncan, rh Sir Alan
Duncan Smith, rh Mr Iain
Dunne, Mr Philip
Ellis, Michael
Ellwood, rh Mr Tobias
Elphicke, Charlie
Eustice, George
Evans, Mr Nigel
Evennett, rh David
Fabricant, Michael
Fernandes, Suella
Field, rh Mark
Ford, Vicky
Foster, Kevin
Francois, rh Mr Mark
Frazer, Lucy
Freeman, George
Freer, Mike
Fysh, Mr Marcus
Gale, Sir Roger
Garnier, Mark
Gauke, rh Mr David
Ghani, Ms Nusrat
Gibb, rh Nick
Gillan, rh Mrs Cheryl
Girvan, Paul
Glen, John
Goldsmith, Zac
Goodwill, Mr Robert
Gove, rh Michael
Graham, Luke
Graham, Richard
Grant, Bill
Grant, Mrs Helen
Gray, James
Grayling, rh Chris
Green, Chris
Green, rh Damian
Greening, rh Justine
Grieve, rh Mr Dominic
Griffiths, Andrew
Gyimah, Mr Sam
Hair, Kirstene
Halfon, rh Robert
Hall, Luke
Hammond, rh Mr Philip
Hammond, Stephen
Hancock, rh Matt
Hands, rh Greg
Harper, rh Mr Mark
Harrington, Richard
Harris, Rebecca
Harrison, Trudy
Hart, Simon
Hayes, rh Mr John
Heald, rh Sir Oliver
Heappey, James
Heaton-Harris, Chris
Heaton-Jones, Peter
Henderson, Gordon
Herbert, rh Nick
Hinds, Damian
Hoare, Simon
Hollingbery, George
Hollinrake, Kevin
Hollobone, Mr Philip
Holloway, Adam
Howell, John
Huddleston, Nigel
Hughes, Eddie
Hunt, rh Mr Jeremy
Hurd, Mr Nick
Jack, Mr Alister
James, Margot
Javid, rh Sajid
Jayawardena, Mr Ranil
Jenkin, Mr Bernard
Jenrick, Robert
Johnson, rh Boris
Johnson, Dr Caroline
Johnson, Gareth
Johnson, Joseph
Jones, Andrew
Jones, rh Mr David
Jones, Mr Marcus
Kawczynski, Daniel
Keegan, Gillian
Kennedy, Seema
Kerr, Stephen
Knight, rh Sir Greg
Knight, Julian
Kwarteng, Kwasi
Lamont, John
Lancaster, Mark
Latham, Mrs Pauline
Leadsom, rh Andrea
Lee, Dr Phillip
Lefroy, Jeremy
Leigh, Sir Edward
Letwin, rh Sir Oliver
Lewer, Andrew
Lewis, rh Brandon
Lewis, rh Dr Julian
Lidington, rh Mr David
Little Pengelly, Emma
Lopez, Julia
Lopresti, Jack
Lord, Mr Jonathan
Loughton, Tim
Mackinlay, Craig
Maclean, Rachel
Main, Mrs Anne
Mak, Alan
Malthouse, Kit
Mann, Scott
Masterton, Paul
Maynard, Paul
McLoughlin, rh Sir Patrick
McPartland, Stephen
McVey, rh Ms Esther
Menzies, Mark
Mercer, Johnny
Merriman, Huw
Metcalfe, Stephen
Miller, rh Mrs Maria
Milling, Amanda
Mills, Nigel
Milton, rh Anne
Mitchell, rh Mr Andrew
Moore, Damien
Mordaunt, rh Penny
Morgan, rh Nicky

Morris, Anne Marie
Morris, David
Morris, James
Morton, Wendy
Mundell, rh David
Murray, Mrs Sheryll
Murrison, Dr Andrew
Neill, Robert
Newton, Sarah
Nokes, Caroline
Norman, Jesse
O'Brien, Neil
Offord, Dr Matthew
Opperman, Guy
Paisley, Ian
Parish, Neil
Patel, rh Priti
Paterson, rh Mr Owen
Pawsey, Mark
Penning, rh Sir Mike
Penrose, John
Percy, Andrew
Perry, Claire
Philp, Chris
Pincher, Christopher
Pow, Rebecca
Prentis, Victoria
Prisk, Mr Mark
Pritchard, Mark
Pursglove, Tom
Quin, Jeremy
Quince, Will
Raab, Dominic
Redwood, rh John
Rees-Mogg, Mr Jacob
Robertson, Mr Laurence
Robinson, Gavin
Robinson, Mary
Rosindell, Andrew
Ross, Douglas
Rowley, Lee
Rudd, rh Amber
Rutley, David
Sandbach, Antoinette
Scully, Paul
Seely, Mr Bob
Selous, Andrew
Shannon, Jim
Shapps, rh Grant
Sharma, Alok
Shelbrooke, Alec
Simpson, David
Simpson, rh Mr Keith
Skidmore, Chris
Smith, Chloe
Smith, Henry
Smith, rh Julian
Smith, Royston
Soames, rh Sir Nicholas
Soubry, rh Anna
Spelman, rh Dame Caroline
Spencer, Mark
Stevenson, John
Stewart, Bob
Stewart, Iain
Stewart, Rory
Stride, rh Mel
Stuart, Graham
Sturdy, Julian
Sunak, Rishi
Swayne, rh Sir Desmond
Swire, rh Sir Hugo
Syms, Sir Robert
Thomas, Derek
Thomson, Ross
Throup, Maggie
Tolhurst, Kelly
Tomlinson, Justin
Tomlinson, Michael
Tracey, Craig
Tredinnick, David
Trevelyan, Mrs Anne-Marie
Truss, rh Elizabeth
Tugendhat, Tom
Vaizey, rh Mr Edward
Vara, Mr Shailesh
Vickers, Martin
Villiers, rh Theresa
Walker, Mr Charles
Walker, Mr Robin
Wallace, rh Mr Ben
Warburton, David
Warman, Matt
Watling, Giles
Whately, Helen
Wheeler, Mrs Heather
Whittaker, Craig
Whittingdale, rh Mr John
Wiggin, Bill
Williamson, rh Gavin
Wilson, Sammy
Wollaston, Dr Sarah
Wood, Mike
Wragg, Mr William
Wright, rh Jeremy
Zahawi, Nadhim

Tellers for the Noes:
Andrew Stephenson and Stuart Andrew

Question accordingly negatived.

10.15 pm

Clause 7 ordered to stand part of the Bill.

The occupant of the Chair left the Chair to report progress and ask leave to sit again (Programme Order, 11 September).

The Deputy Speaker resumed the Chair.

Progress reported; Committee to sit again tomorrow.

Business without Debate

INDEPENDENT PARLIAMENTARY STANDARDS AUTHORITY

Motion made, and Question put forthwith (Standing Order No. 118(6) and Order of 6 December),

That an humble address be presented to Her Majesty, praying that Her Majesty will appoint Mr William Lifford to the office of ordinary member of the Independent Parliamentary Standards Authority for a period of five years with effect from 11 January 2018. —*(Chris Heaton-Harris.)*

Question agreed to.

PETITION

Oundle Library

10.16 pm

Tom Pursglove (Corby) (Con): I rise to present this petition regarding the future of Oundle library on behalf of the people of Oundle and the surrounding area who rely on this vital facility that provides a range of important services for the community. The petition declares that the residents of Oundle and the surrounding area want Oundle library to remain open. A similar petition has received 1,474 signatures.

The petition states:

The Petitioners therefore request that the House of Commons urges the Government to compel Northamptonshire County Council to provide adequate funding to allow Oundle Library to remain open. And the Petitioners remain, etc.

Following is the full text of the petition:

[The Petition of residents of Northamptonshire,

Declares that Oundle Library should remain open.

The Petitioners therefore request that the House of Commons urges the Government to compel Northamptonshire County Council to provide adequate funding to allow Oundle Library to remain open.

And the Petitioners remain, etc.]

[P002090]

Mental Health Provision: Children and Young People

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

10.18 pm

Luciana Berger (Liverpool, Wavertree) (Lab/Co-op): It may be quite late in the evening, but I wish to raise some serious issues arising from the publication last Monday of the Government's Green Paper on children and young people's mental health provision. I am pleased to see the Minister on the Treasury Bench and look forward to hearing her response shortly. It is a shame that the publication of the Green Paper last week was not accompanied by an oral statement when there is so much to discuss, but it is heartening to see so many Members in the House so late this evening.

After talking to people with lived experience of mental ill health, young campaigners, clinicians and parents over the past few months, I know that there was a huge degree of anticipation and expectation attached to the Green Paper. The issues are well known to hon. Members. Demand for mental health services for young people is increasing. The number of children being admitted to A&E in a mental health crisis is at a record high. Self-harm among young people, especially teenage girls under the age of 17, has increased by 68% over the past three years. Face-down restraint was used more than 2,500 times on people under the age of 18 in mental health units in 2014-15, which is the last year for which records are available. Yet face-down restraint is something that should be—and is expected to have been—phased out.

The money allocated to mental health is not reaching the frontline, and when I and many others called for the cash to be ring-fenced in the Budget, that call went unheeded. I had the opportunity to ask the Minister at the Health Committee to ring-fence the money, and her response was that:

"in my experience ring fences ultimately become ceilings."

I tell her today that young people in my area would certainly take that ceiling.

This financial year, the Young Person's Advisory Service, the main mental health service for children and teens in Liverpool, has been cut by £757,000—a 43% cut. We have seen a raft of cuts to other key mental health services in my area, including services for young carers and the Liverpool Bereavement Service.

A recent Care Quality Commission report confirmed that young people across the country are waiting up to 18 months to access the treatment they need. Too many are turned away because they do not meet increasingly out-of-reach thresholds. Young people are literally being turned away and told to come back when their condition is more serious.

A local primary teacher emailed me recently and set out the cases of three students under the age of 11 who had been referred by his school to child and adolescent mental health services, including one who had displayed signs of a split personality and one who had harmed the family pet without showing signs of remorse. All three referrals from that primary school were rejected. Over the past two years, 100,000 children have been rejected by services, despite being referred. I ask Members to imagine if we treated cancer the same way.

Jim Shannon (Strangford) (DUP): I congratulate the hon. Lady on bringing such an important issue to the House at this time of the day. Taking into account reports that mental health problems affect about one in 10 children and young people and that 70% of children and young people who experience a mental health problem have not had appropriate interventions at a sufficiently early stage, does she agree that it is time not for words but for action that would see the Health Department and the Department for Education working cohesively to address the issue she has put forward?

Luciana Berger: The hon. Gentleman makes a really important point about co-ordination between various Departments to ultimately effect change and support young people across the country, and that is what I and so many others are really looking forward to. However, I am going to set out in the rest of my remarks why I think the opportunity has been missed.

We have seen programmes such as Channel 4's "Kids in Crisis", which have brought many of the issues I have set out to a broader audience. That has included the scandal of too many young people having to travel hundreds of miles from their homes to receive treatment and support—and that is if they get in at all.

We know that the younger generation, coming into adulthood, are prone to a range of mental health conditions: depression, anxiety, eating disorders, self-harm, suicidal thoughts, phobias and other challenges. Those destroy confidence, blight education, training and employment opportunities, alienate young people from society, and, in some cases, drive families to tearful despair.

There is a social justice aspect to this too. Children from the poorest fifth of households in our country are four times more likely to have a mental health difficulty than those from the wealthiest fifth. Health inequalities in our country persist as strongly in mental health as in physical health.

Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): Would the hon. Lady agree that, in my vast and far-flung constituency—the second biggest geographically in the UK—what she says about distance is an extraordinarily pertinent and very worrying issue for my constituents?

Luciana Berger: I thank the hon. Gentleman for his intervention. We have heard from many Members on both sides of the House about families having to travel hundreds of miles to access treatment. Just last week, I heard of one young person being sent to Scotland to access in-patient treatment for eating disorders, because there was not a bed available for her in England. In certain parts of the country, it is certainly the case that people have to cross boundaries and to go north and south to access services, in a way that we would not accept if this was for physical health services.

Given this growing and what I can only describe as desperate demand for services for young people, I and many others eagerly awaited the Green Paper. I have read it many times, but it was—and I hate to say this—a disappointment. I believe that Ministers have failed to meet the scale of the challenge. The £300 million outlined for mental health support in schools sounds really impressive—until we read the detail and we realise that Ministers aim to reach just a fifth of schools over the

[Luciana Berger]

next six years, with eight out of 10 schools remaining without the extra support until 2029. It really is a drop in the ocean. Ministers intend to roll out services over the next decade as though there was no urgency or imperative for action. I hardly need to point out that this means that most eight-year-olds today will see no benefit from these proposals throughout their entire childhood and adolescence.

Sandy Martin (Ipswich) (Lab): I thank my hon. Friend for bringing this important issue to the House. Does she share my concern about the waiting times between referral for treatment and the start of treatment? Does she agree that much self-harm and, indeed, suicide of young people takes place during that waiting period? Does she believe, as I do, that while four weeks would be an improvement on most of the waiting times that our children and young people have had to face up until now, that maximum wait needs to be upped to until actual treatment and not just until the assessment for treatment?

Luciana Berger: My hon. Friend pre-empts a question that I was going to ask of the Minister, because it is not clear whether the pilot that the Government are going to introduce is based on a four-week waiting time for assessment or a four-week waiting time for treatment. Those two things are very different. In many parts of the country, young people will sometimes have an immediate assessment but then have to wait weeks, if not months, to actually access the treatment that they need.

Alex Chalk (Cheltenham) (Con): The hon. Lady speaks with passion and authority on this subject. As the Member of Parliament for Cheltenham who has witnessed this explosion in adolescent mental health problems, I share her concerns. Does she agree that as well as looking at cure, we need to look at prevention and to understand why this explosion is taking place? The time has come for a really good, authoritative body of work to get under the bonnet of why these problems are arising as they are.

Luciana Berger: I thank the hon. Gentleman from the bottom of my heart for that intervention, because that is the crux of the point that I am seeking to make. I have sought to highlight some of the issues in the Green Paper, and I will highlight a few more, but the greatest problem is what is not in it—namely, what we can do to prevent mental ill health in our young people rather than deal with and treat it when they become mentally unwell. I will come to that in a moment.

The Royal College of Psychiatrists eloquently states what I believe, which is that the Green Paper lacks

"a suitable scale of ambition or speed of action."

The royal college reminds us that in the Health Education England mental health workforce plan, which sets out the posts for which the NHS aims to recruit from now until 2021, there are no new consultant psychiatrist posts for children and young people's community services—none at all. Yet we know that there is a massive shortage of child psychiatrists in our country.

Helen Whately (Faversham and Mid Kent) (Con): I commend the hon. Lady for securing this debate because it is really good to be having a conversation about this Green Paper. It is worth mentioning that it is a great moment of progress to have a joint piece of work between healthcare services and the Department for Education on getting into the issue of mental health in young people, which is such a growing problem. Like my hon. Friend the Member for Cheltenham (Alex Chalk), I think that we have to get into understanding the causes better. As the hon. Lady said, we need to take action at greater pace and to a greater scale. Does she welcome the fact that, as the Royal College of Psychiatrists says, there has been a step in the right direction in that that there is an evidence-based approach, which is to be welcomed? Does she agree that a particular challenge that must be addressed is the need to recruit and retain the workforce that we need to deliver this care and support to young people?

Luciana Berger: I thank the hon. Lady. I believe that we both share the concern about the challenge of recruitment within the mental health workforce. The Government themselves acknowledge that there is an issue by way of the fact that they have put forward a plan to recruit these extra thousands of mental health workers between now and 2021. In the context of our conversation this evening about young people in particular, it is particularly disheartening and dispiriting that the specific plan that was set out only a few months ago contains nothing to expand the number of child psychiatrists—something that we desperately need. In the north-west, we really struggle to fill vacancies for those posts.

Rachael Maskell (York Central) (Lab/Co-op): My hon. Friend is making a great speech about the real crisis in child mental health. Does she agree that the Green Paper places more and more focus on teachers, as opposed to health professionals, providing mental health support? Teachers are already really stressed by the volume of work that they have to do and they are not trained as medical professionals, so should that emphasis change?

Luciana Berger: I thank my hon. Friend for that important contribution. Another question that I hope the Minister will answer is how we can properly equip and train teachers to contend with the responsibility that they will be given if the plan set out in the Green Paper goes ahead. At the same time, the Department for Education is piling extra pressure on students with more testing. There are fewer teaching staff, which adds to the pressure on the remaining staff, and class sizes are larger. Cuts have been made to mentors, pastoral care and counselling. There has been a 13% reduction in the number of educational psychologists in our schools. The Royal College of Nursing points out that the number of school nurses has dropped by 16%, while the number of school-age pupils has gone up by 450,000. Young people face bullying, online threats, dysmorphic body image and advertising in a way that no previous generation has done.

Like many hon. Members, I am upset, appalled and outraged every week by the heartbreaking cases that constituents and their families raise with me in person or via email. Many Members in this House will recall the case in August of 17-year-old Girl X. She was restrained more than 100 times in a place that was not fit for her care, and she was left without a secure bed.

The UK's most senior family court judge, Sir James Munby, raised her case and warned us that we would have "blood on our hands" if this suicidal and vulnerable young woman did not get the treatment that she needed. But why was his continued intervention needed?

The case of Jack was brought to me this weekend. Jack is eight years old, and he has autistic spectrum disorder. He is in a severe state of anxiety and distress, and he has spent the last eight weeks on a ward in Alder Hey Children's Hospital. He has had no specialist support from CAMHS and no specialist in-patient bed. He is getting more ill, and his family are, in the words of his mum Kerry, "in complete crisis."

Just this afternoon, I heard about the case of Martha, who is 15 and has a history of self-harm. She has been admitted to A&E twice after taking an overdose. From a referral in June, Martha is still waiting to see a mental health professional. In the cases that I have described and thousands like them, every day counts, but young people are waiting weeks and months for treatment while their conditions worsen and their families are left distraught.

I do not believe that the Green Paper does anything for young people such as Jack, Martha or Girl X, or for thousands of other young people, whose lives should be filled with optimism and wonder as they look to a future laden with promise. I am concerned that instead, they are going to face years of torment, anguish and pain, made worse by the fact that so much of it is preventable. The majority of adults with diagnosable mental health conditions will have developed them under the age of 18. The life chances of thousands are being blighted. We are leaving a generation in pain; they are being let down because the care is not there.

Ultimately—I agree with the point made by the hon. Member for Cheltenham (Alex Chalk) —what is missing is the proper focus on prevention. How can we prevent mental ill health and keep our children well? We know that the first 1,001 days of a child's life determine their life chances and life outcome, and that is why the previous Labour Government invested millions in Sure Start and children's centres. We need to remove the factors that create mental ill health in the first place: neglect, childhood trauma, domestic abuse, bullying, insecure housing and poverty. Unfortunately, the Green Paper does not address those issues. Indeed, the words Sure Start, deprivation, homelessness and inequality do not appear in the Green Paper even once.

We do not need to be economists to understand that it is far more expensive to run a service that is based on crisis than a service that is based on prevention, not just in human terms, but in terms of taxpayers' cash. What a wasted opportunity. I sincerely hope that the consultation on the Green Paper will be meaningful, that Ministers will listen to the voices of young people and experts across the country who are crying out for change, and that we will see some action.

In conclusion, will the Minister tell the House—I have asked this question, but let me reiterate it—whether the pilot, which I know is only a pilot, will introduce a four-week waiting target for assessment or for treatment? The Green Paper guarantees funding only for the period of the spending review, so what guarantees can the Minister offer us for maintaining funding after the initial three years are up? What will happen then? How will the lucky fifth of schools be selected for the first wave of support? How will her Government address the aim of real parity of esteem between mental and physical health? Reading the Green Paper, it seems to enshrine imparity by supporting only 20% of children over the next six years. Finally, is she convinced that this really is the best her Government can do for the greatest asset that we possess—our young people, who are our nation's future?

10.35 pm

The Parliamentary Under-Secretary of State for Health (Jackie Doyle-Price): I thank the hon. Member for Liverpool, Wavertree (Luciana Berger) for bringing this debate to the House. As usual, she speaks with clear passion on this subject, and she has very clearly outlined the challenges that we face. We have brought forward this Green Paper exactly because of the sort of examples she has articulated, and we need to do a lot more for our young people.

The Green Paper is centred on the support we are going to give through schools, through which we will achieve earlier intervention. We intend to be treating 70,000 more children and young people by 2021. I appreciate the hon. Lady's impatience, but we are none the less trying to achieve a step change in the amount of support and care we give to children and young people. We have set out proposals for consultation, and I encourage all Members of the House to get involved in responding to them. I am very heartened that, notwithstanding the late hour and the difficult set of votes we have had, so many Members are in the Chamber, which is an indication of just how important this subject is.

The hon. Lady raised a number of issues that are, indeed, all challenging, and I will pick up on a few of them before I come on to the substance of my remarks. The issue of the workforce is extremely important. She and I have had many exchanges on this, and the reality is that our ambition can be delivered only to the extent that we can achieve an increase in the workforce. We are giving a very clear indication that mental health is our priority—we want to send the very clear message that there is a future career in mental health and to attract people into it; none the less, we have had problems with recruitment and retention for many years, and this will take some time to embed. Through the pilots, which she has described, we want to learn what works, and I hope we can deliver on our ambition to deliver a real change.

The hon. Lady also asked whether we are putting too much of a burden on teachers. I would dispute that: we have found that 61% of teachers want to know how best to support children when they see evidence of mental ill health, and nobody can doubt the real commitment of teachers to the children in their care. Part of what we are proposing in the Green Paper is to give them the tools to do the job, and to give them access to more treatment. This is the first time that schools, the Department of Health and the Department for Education have come together to deliver such a policy, and this is a very important way of achieving earlier intervention to support better outcomes.

The Green Paper seeks to build on the progress that we have already made—from setting up the first ever waiting times for mental health to supporting the recommendations of "Future in Mind" through investing £1.4 billion to bring together all services working with

[Jackie Doyle-Price]

children and young people to improve mental health services. While we have heard about some of the very considerable concerns raised about services as they stand, the hon. Lady will have heard me say previously that we are in the midst of a huge programme to achieve change for the better.

I want to take a moment to pay tribute to the incredible staff who are rising to this very significant challenge. We are naturally focused on the shortcomings of services, but we need to recognise that many staff work incredibly hard, and their work must not go unacknowledged.

We are in the midst of an improvement. Last year we saw a 20% increase in the amount of money that clinical commissioning groups spent on children and young people's mental health, rising from £516 million in 2015-16 to £619 million in 2016-17. I recognise the issues that the hon. Lady raised in her area. As she will be aware, they are under review by NHS England through Claire Murdoch's programme board.

We have heard concerns about money not getting through to the frontline, but we know that the additional £1.4 billion is already making a difference. Amid the huge concerns raised, we have to keep in mind the huge achievements of the NHS, with many more lives changed for the better thanks to its work.

It is also worth acknowledging where we have achieved success with early intervention. We are exceeding the early intervention in psychosis waiting time standard, with 76.7% of patients receiving treatment within two weeks of referral, and we are on track to meet the waiting time element of the eating disorder standard, with 71% of urgent eating disorder patients receiving treatment within one week and 82% of routine eating disorder patient receiving treatment within four weeks.

The hon. Lady mentioned the pilots and the extent of our ambition with regard to the four-week waiting time. The target is to achieve four weeks for access to assessment for specialist services. While she might feel frustrated by that ambition, it is worth recognising that at the moment some children can be waiting for as long as two years, which is clearly unacceptable. We need to assess what works and ensure that any services that are accessed are based on clinical need.

"Future in Mind" brought together experts from across the sector to ensure that services dealing with young people had credible plans to improve services. We also made sure that these included the voices of young people themselves, and we intend to continue our dialogue with young people. Since "Future in Mind", we have committed to rolling out mental health first aid to every secondary school by 2019, and to all primary schools by the end of this Parliament. We are also investing £15 million, with the help of Public Health England and others, in a public mental health campaign to train 1 million people in mental health awareness. I think we all agree that the earlier the intervention, the better the outcome.

The hon. Lady quite rightly raised the issue of young people having to travel too far for care, which clearly is appalling. NHS England has committed to eliminating inappropriate out-of-area placements by 2020-21, so we are seeing investment in services and beds where there is lack of provision. In particular, we have had a significant increase in provision in the south-west.

Jamie Stone: I appreciate the sincerity of the Minister's remarks. All that I can say, given my earlier intervention about my vast and remote constituency the other side of the border, is that I would be grateful if she could share her Department's expertise with the Scottish Government, because the same issues could be tackled in the same way north of the border.

Jackie Doyle-Price: I thank the hon. Gentleman for his intervention. I am pleased to acknowledge that I have a very good dialogue with the Scottish Health Minister. It is fair to say that all four nations can learn from each other when it comes to delivering better health outcomes and sharing best practice.

We know that young people are sometimes still taken to police cells when they are in a mental health crisis. The hon. Member for Liverpool, Wavertree outlined the very distressing case of the young woman who had been restrained many times. The Under-Secretary of State for the Home Department, my hon. Friend the Member for Louth and Horncastle (Victoria Atkins), and I yesterday announced new police provisions that will finally put an end to this practice. We will ensure that children will always be taken to places of safety. The issue of prone restraint for children really needs to be examined.

The Green Paper will build on these foundations to build a new approach to supporting the mental health of our children and young people. With over £300 million of funding available, we will train a senior designated mental health lead in every school and college to improve prevention work—many schools have already made that commitment—and create brand new mental health support teams working directly with schools and colleges, and we anticipate that they might be working within multi-academy trusts or through local education authorities, and some might be provided through the NHS. Through the pilots we will discover what works, and it will not necessarily be a one-size-fits-all approach.

Luciana Berger: I am conscious of the time and that the Minister will soon conclude her remarks, but I have two points that I would like her to respond to. Does she accept that what she is laying out is essentially replacing much of what has been lost in schools: the number of educational psychologists, peer mentors and counsellors lost from our schools because they do not have the funds to pay for them? I hope in her final remarks she can address prevention, which is a very serious point. What are she and the Government going to do to prevent mental ill health in our young people?

Jackie Doyle-Price: I do not accept the premise of the hon. Lady's first point. We are trying to build a critical mass that schools will have access to. On prevention, the investment we are making in mental health first aid and training in schools will enable staff in schools to see when people are going through mental ill health issues. The earlier we can put that support in place the better. We are working with the Department for Digital, Culture, Media and Sport on what we can do through social media. We know that online bullying is causing a lot of mental health issues. As I say, this is a Green Paper. We are making money available. We want to see what works and we want to take this forward in a consultative manner. We will respond fully to any points made as a result of that consultation.

Rachael Maskell: What is the Minister going to do to prevent the causes of poor mental health in young people?

Jackie Doyle-Price: The point of the Green Paper is that we are looking to put support mechanisms in place so that children facing mental health issues have access to care. That is very much the focus of today's debate and the Green Paper.

To conclude, as we are running very short of time, I am grateful to the hon. Member for Liverpool, Wavertree for bringing this subject forward for debate. I am sure it will not be the last time we debate it—in fact, I know for certain that it will not. We are trying to achieve a step change in the support we are giving to children and young people. We know that the situation is far from perfect at the moment, but we fully anticipate that we will meet our ambition in the five year forward view to be treating 70,000 more children by 2021.

Question put and agreed to.

10.46 pm

House adjourned.

Westminster Hall

Tuesday 12 December 2017

[Mr Laurence Robertson *in the Chair*]

Domestic Violence Refuges: Funding

9.30 am

Mr Laurence Robertson (in the Chair): Before I call the mover of the motion, it might be helpful to hon. Members if I say that, given the level of interest in the debate, I will impose what looks like being a four-minute time limit on other Back-Bench speeches.

Jess Phillips (Birmingham, Yardley) (Lab): I beg to move,

That this House has considered funding for domestic violence refuges.

It is a pleasure to serve under your chairship, Mr Robertson. I believe that is the customary thing to say.

Refuge accommodation is not a bed space; it is a lifeline, a community, and an experienced and knowledgeable place for recovery. Refuge is a place where people are rebuilt, where families find each other. A bed is a place where we sleep; a refuge is far more remarkable, and we would not necessarily know it unless we had seen it.

I remember a woman coming into the refuge where I worked. She could not speak or eat, because she had been starved as part of her control. I will never forget watching a refuge worker sit with her for hours, gently feeding her some lukewarm baked beans, teaching her how to feed herself again.

I remember another family where the mother had been so belittled and so dehumanised by her abuser that she could not parent her kids any more. She had no power or influence over them at all, and her 11-year-old daughter had become the mother to a seven-year-old and a three-year-old. Refuge family support workers had to rebuild that family: teach mom what parenting was and, more importantly, teach her daughter to be a kid again. I will never forget that once-serious child twirling, dancing and giggling along with the other children living in the place, after weeks and weeks of structured activity to give her the freedom of any child. If I close my eyes and think of refuge, it is not sad; it is not the image so often seen in hard-hitting domestic violence posters of a battered woman cowering in a corner. What I see is that child's face; I see her spinning, carefree in the atrium between the flats. She is a phoenix.

I start this debate by saying that I do not agree with the Government's proposed new funding model. I do not agree that it is the right approach yet.

Emma Hardy (Kingston upon Hull West and Hessle) (Lab): The Hull Women's Aid service manager told me that that service, the only one of its kind in Hull, has faced year-on-year cuts of up to 15% since 2013. Loss of support for survivors would have a massive long-term impact on their mental and emotional health. Does my hon. Friend agree that the Government must ring-fence the funding available for women's refuges to ensure that those women are not let down when they need them the most?

Jess Phillips: I absolutely agree. One of the things in the proposed new formula is to do with a ring fence, but it is how we put that ring fence on and use it that will tell us whether it is working.

It is important to say that I do not think that the Government are wrong out of malice. I believe they are trying to solve an age-old problem of finding sustainable funding for supportive accommodation for vulnerable people at the same time as wanting to reduce the housing benefit bill. The new model is their well intentioned if naive solution.

To set the scene, I must explain what happens now. Most refuge providers fund their services through a mixture of Supporting People funding from council grants and housing benefit. To use my old organisation as an example, we had three refuges funded by a council-commissioned service, topped up by the housing benefit system for the women who lived there. We opened another refuge to meet the need, as every day we were turning people away, especially women with no children. That provided an extra 10 beds, fully supported, completely funded by housing benefit. It was not part of the commissioned service in the area; it responded to the needs as they actually were, not according to a pre-planned contract.

Does the Minister honestly think that if a ring-fenced funding pot now went to that local council, which has to make tens of millions of pounds-worth of cuts this year, it would not just use the money to cover the contract fees of its commissioned service? Councils would rightly use that money to ensure that their refuge contracts can be maintained in a time of cuts. At my old organisation, that would close the extra 10 beds—which, by the way, were nowhere near enough.

To use the example of the specialist refuge accommodation provider in Slough, an organisation called Dash, we can see how precarious council-commissioned services can be. Dash was always the refuge provider in the old days of Supporting People. When its council set up a commissioning process for the local refuge service, Dash did not win. Instead, the contract went to a generic housing association service. Dash, however, maintained its 14-bed refuge with housing benefit and its own charitable fundraising. Years later, when the council decommissioned its refuge offer—again because of council cuts—the generic provider did not carry on because it was no longer financially viable for it. Its 18 beds closed. Unlike the specialist service, the generic provider's commitment went with the contract, not with the needs of the women and children. Slough used to have 32 beds servicing the local area; now it has 14. Again, does the Minister think for a second that when the Government give the proposed money to the council, Slough will go back to 32 beds? Or will it just backfill and fund the 14?

Historically, refuge support costs in Devon were funded through the Supporting People programme, administered by Devon County Council. Mirroring national trends after the demise of that funding, in 2014 Devon County Council ended grant funding and began to tender for domestic abuse services—but refuges were not included in the tender at all. That decision forced one of the two operating refuges in the county to close, cutting 12 rooms for women and children.

How will the Government decide which local area gets what? Will it be decided on the basis of what exists now, which will leave many local areas without anything?

[Jess Phillips]

Incidentally, the Prime Minister's own council, the Royal Borough of Windsor and Maidenhead, stated in a letter that I had yesterday:

"We do not commission places directly but we spot purchase accommodation for eligible clients through our housing options service".

How will we give money to those local authorities that currently do not bother to take responsibility themselves, but rely on the housing benefit system to send women to other boroughs? I find it quite remarkable that the council area of the Prime Minister's seat, a place that looks after her constituents, does not commission a single bed space. Instead it relies on no doubt a poorer neighbouring council and the well meaning specialist agencies to do the heavy lifting so that it can send its women there. How on earth, in the Government's proposed system, will they get a fund that has to react to need rather than to guessed figures at the beginning of the year?

Local grant funding for short-term supported housing will be based on current projections of future need and informed by local authorities, according to the Minister's Department. That will be a fixed pot of money, and it is not clear how that will flex or respond to actual levels of demand for refuge. Refuge demand far outstrips supply, and there is no clear model for predicting future need. For example, demand for refuge is likely to increase if the Government's ambitions in the domestic violence and abuse Bill are achieved, and more victims come forward to seek help. It will be extremely challenging, if not impossible, accurately to project future need for refuge by consulting with local authorities alone. What happens if all the money is spent by November? Will we turn women away? The housing benefit system responded to demand, not guesswork based on already under-supply.

So to quality, and I return to the families I talked about at the beginning of my remarks. What are the Government going to do to make sure that local councils use that fund to provide more than just a bed? As the Royal Borough of Windsor and Maidenhead council said in its letter to me,

"the housing option service is confident in securing emergency accommodation for its customers"—

I would say "citizens", but whatever—

"through either refuge space or its temporary accommodation providers".

It goes on to say the council ensures that people are housed in "appropriate" temporary accommodation.

What does "appropriate" mean? I have been to appropriate accommodation. I have seen the bed-and-breakfast accommodation where vulnerable people get stuck. I have seen five beds all in one dirty room, a bathroom with used condoms left in the shower by the previous tenant. I have seen how appropriate temporary accommodation means placing young, 18-year-old girls who have been sexually abused and exploited in the next room to men released from prison that same week. How very appropriate. I have seen families left in rooms with no cooking facilities at motorway service stations around Birmingham—left for months to eat packets of sandwiches and travel two hours a day to get their kids to school.

Why, on a dark Sunday night, did I receive a phone call from a group of women in a refuge commissioned by Kensington and Chelsea council, whose ceiling had fallen in? My very first question was, "Where is your on-call manager for this service?" Why was there no one there? I have been an on-call manager and I have spent my nights putting on boots over my pyjamas and going to deal with a problem in a refuge: a baby being born or the fire alarm constantly going off. The bare minimum is that someone should be no more than a phone call away. These people are at risk; they are in danger. How will the Government check that councils spend the money and what they spend it on? What audit function will they put in place to make sure that quality refuge services are commissioned and actually help people? Local need, which is what has been outlined, means very different things. I want to see little girls given back their childhood. I want to see caring, well paid support workers sitting over their clients who are so traumatised that they cannot eat. I want lives to be rebuilt. I do not want a bed for the night.

One of the domestic homicide reviews I was involved with, where a young mother with three children was brutally murdered, told the story of a woman housed in "appropriate accommodation". Left lonely in a Birmingham hotel, without any of the safety measures or supports that the proper refuge, which was full, would have provided, she went back. She is dead now.

Who will check that taxpayers' hard-earned money is paying for care, safety and love, rather than lining the pockets of hoteliers and money-driven contractors? It is money down the drain. If Ministers care about taxpayers —I believe they do—quality and value for money matter. Currently, much of our taxes go on nothing at all. I have heard the Government talk about the thousands of new bed spaces and the experts on the ground. My own experience of trying to house victims tells me a very different story.

I asked the Department, in a parliamentary question, to tell me exactly where the bed spaces are. The Minister handed me a document just before the debate, and I received the response to that question at 8.51 this morning. I understand that there was an issue and I will give the Minister the benefit of the doubt. As I looked at the data this morning, I simply could not see a reality: the data says that there are 34 new bed spaces in Solihull, my neighbouring borough, which has joint refuge services with Birmingham and Solihull Women's Aid. I texted the manager of Birmingham and Solihull Women's Aid this morning; so far, she is not sure what that is on about. We shall wait and see.

Stella Creasy (Walthamstow) (Lab/Co-op): My hon. Friend is making an incredibly powerful case. Is she as worried as I am to read that only a third of women who need a place in a refuge get one? The changes she talks about could make that situation even worse. Does she agree that that is an untenable situation?

Jess Phillips: It is a totally untenable situation. I understand that we all have to cut our cloth to meet our needs; however, I never hear Ministers just say, "We can't afford this." If that is the reality, they should come out and say it. We cannot say that we will do something about the problem, when the reality is laid so bare across the country.

I would stake £100 million on the fact that the first page of the Minister's speech is about the £100 million that the Government are investing to prove their commitment to the problem of domestic violence. He

has time to amend that now; otherwise I will owe him £100 million. Where the hell is the money going? By all accounts it is stuck in a local authority commissioning problem in most cases, which should be a warning for the future. I am not seeing any extra money. What I am seeing is 90 women and 94 children turned away from refuges every day. I am seeing Birmingham City Council removing 2 million quid from their supported accommodation budget in 2020, including refuge accommodation. The local drop-in services for victims across the city have already gone and the housing and homeless advice provided in local neighbourhood offices has also gone—but then so have the neighbourhood offices.

Where is the £100 million? Has the Minister's Department done an assessment of how much local councils have taken out of domestic and sexual violence services in the last seven years? The £100 million cannot be a number that people say at the Dispatch Box; it needs to mean something. Although I am not normally a betting woman, I will go double or quits with the Minister that, in fact, much more than £100 million has been taken out of local services.

I pay tribute to the 118,000 people who signed Women's Aid's petition to stop those changes. The specialist women's sector have all come out to say that the proposed refuge funding changes will potentially cut a third of all refuge beds. We must listen to the sector and think again. In total, Women's Aid estimates that 588 bed spaces will be lost—places that would have supported 2,058 women and 2,202 children during this year. When added to those who were already turned away, as my hon. Friend the Member for Walthamstow (Stella Creasy) said, the result is 4,000 women and children being turned away from life-saving services that they desperately need.

I will add my two pennies' worth—or my £10 million; I seem to be in over my head financially—and say that is not that complicated. We must make refuge accommodation a statutory requirement of local authorities and give local councils exactly what that costs, along with guidance and standards. We have written those before and it is not rocket science; we used to have them when I first started. We used to require councils to provide one bed space for every 10,000 of the population. I remember filling in the very dull monitoring forms myself. Let us look at what is actually needed and fund that.

We cannot just let some councils opt out. I have been a local councillor; in fact, I oversaw much of the vulnerable adults commissioning. Local councils care, but if there is a homelessness problem and a pot of money that will pay to solve that regardless of the actual needs of those who need housing, councils will take the path of least resistance. Local commissioning practices, which often lack domestic violence expertise, have severely damaged specialist refuge provision. In the context of major demand for refuge and other short-term services, budget constraints and pressures on local authorities to improve homelessness provision, there will be little incentive to commission a range of specialist services that meet differing needs. Instead, this one-size-fits-all model will further encourage generic, short-term housing that can be provided at lower cost but does not deliver the specialist support of a refuge. I will not bore hon. Members with details of what a murder costs the taxpayer, or how much money we spend on victims of violent crime in our A&E services. I am bored of saying how much money would be saved if we got this right. I have been saying that for years and I will say it for years to come.

I ask the Minister to do the following, and I am sure he will recognise that I will keep on pushing until he agrees, so he could save us both a lot of time and effort: he must halt the proposal to include refuges in the new funding model for short-term supported housing services, at least until the Government's comprehensive review of refuge funding has been completed in 2018. I ask him to work with me, Women's Aid and specialist refuge providers to design a new model that will provide a long-term and sustainable funding solution for refuges.

Chris Elmore (Ogmore) (Lab): My hon. Friend is making a hugely important and passionate speech on this subject, which I know she cares so much about. She has mentioned lots of services in England, but could I take her to Wales for a moment? The Welsh Government have devolved responsibility for many of the areas that she is discussing. We have the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015, which brings consistency, quality of service and joined-up service provision for women and children who are seeking refuge, and I am sure that there is a similar situation in Scotland. Does she agree that the Government need to learn from devolved Administrations about this work? Also, the Welsh Government have allocated an extra £500,000 to tackle some of the cuts coming from consequentials in relation to refuge and housing benefit changes linked to domestic violence cases. Does she share my view?

Jess Phillips: As somebody who moans about how everything is so London-centric, I recognise that I am a bit England-centric. I apologise for that. When I worked in a refuge, we always rolled our eyes a little at the standards in Wales and Scotland. We used to say, "We wish it was a bit more like that here." One particular area of Wales seemed to get all the innovative projects. Scotland absolutely leads the way in promoting the message that domestic abuse and sexual violence are completely intolerable. Compared with England, Scotland has always had the run on the cultural debate. The Governments of all the devolved nations and the Westminster Government need to work together to ensure that we do not have a postcode lottery, which is exactly what we have now.

The final thing I wish the Minister to commit to is a big one. I want him to make a clear commitment that no refuges will close or have to turn any women or children away as a result of the new funding model. The domestic violence and abuse Bill will, I hope, be a great thing, and I will support the Government in making that so. It would be a shame if we had to seek to amend it to include mandatory funding for refuge accommodation. If the Government get this wrong, it will be a stain on their record. They have always committed morally to this problem, although they have perhaps found committing resources a little more difficult.

I want the Minister to focus on the dancing, laughing 11-year-old. I want him to imagine her and her family support worker working through her trauma. I want him to see her mom slowly but surely take over the reins, so that that little girl can be free from her responsibility

[Jess Phillips]

as the protector. I do not want to see her living in any old bed in any old service, away from her things, her school and her friends, with nothing but a bed. I do not want her to be the protector anymore—I want it to be us. She was magical. Her name was Aliyah and I will never forget her.

Several hon. Members *rose—*

Mr Laurence Robertson (in the Chair): Order. I am going to have to apply a four-minute limit to Back-Bench speeches. I call Paul Scully.

9.52 am

Paul Scully (Sutton and Cheam) (Con): It is a pleasure to serve under your chairmanship, Mr Robertson. It is also a pleasure and a privilege to follow the hon. Member for Birmingham, Yardley (Jess Phillips), who made a typically passionate speech about something that she really cares about and has real expertise in.

Many of us will have heard from Women's Aid about its concerns. It does a wonderful job and should be congratulated on bringing this issue to the fore. Only recently, many of us were in the Speaker's apartments listening to the tragic tale of Claire Throssell, whose children died at the hands of her partner. I have spoken before about a personal family situation and about the fact that this can happen to anybody. A domestic abuse cycle does not have to be started by drugs or by any other thing. It really can happen to anyone at any time, so it is important that we all speak out about it.

Women's Aid is absolutely right, as the hon. Lady said, that this is not just about giving people a bed for the night. We need specialist services to break the cycle and give people sanctuary from their abusive partners. I welcome the fact that Women's Aid has expressed concern and sparked debate about the closure of refuges and people being turned away, but the Government are investing £20 million to enable local authorities to increase bed space and build on the 9% increase in provision since 2010. I know that the Government take the view that local government is best placed to provide a local response, but more than two thirds of women flee to refuges outside their local area and there is concern among local commissioners about capacity. I suppose there will always be a gap when we devolve power from national to local government in terms of building expertise. However this is resolved, we must ensure that there is capacity at local or regional level.

I very much welcome the domestic violence and abuse Bill, which we will debate in the new year. I hope we can work together on that. The number of women killed by their partner or ex-partner has fallen by 22% since 2010. That is to be welcomed, but it will be scant comfort for Claire Throssell and other victims. The estimated number of female victims of domestic abuse has fallen by 15% since 2010, but again, no victim of domestic abuse can see beyond their personal circumstances, and rightly so. The Crown Prosecution Service's conviction rate for domestic abuse-related prosecutions has risen by 4%, but the family member I referred to fully expects her abusive ex-partner to avoid a custodial sentence despite breaking into her house and assaulting her father, so that will be of little concern to her.

I hope we can work this out. I am glad to hear that the Minister has not dismissed the idea of a nationally funded service, but I hope we can come together to find a situation that works for every victim of domestic abuse and to break the cycle.

9.56 am

Colleen Fletcher (Coventry North East) (Lab): It is a pleasure to serve under your chairmanship, Mr Robertson. I commend my hon. Friend the Member for Birmingham, Yardley (Jess Phillips) on securing and so ably leading this important debate about funding for domestic violence refuges.

In the days leading up to the debate, I spoke to refuge providers, especially in Coventry, and to people who work with victims and survivors of domestic abuse and sexual violence about their concerns about the proposed reforms to refuge funding. I want to use the words of one of those individuals, who knows at first hand the devastating impact those reforms will have. She told me:

"I'm very worried about the proposed 'supported housing' funding reforms. The thought that 52 percent of refuges will either close or reduce the space available for such vulnerable women and children is unthinkable. Put this against a backdrop of massive increases in the numbers of victims of domestic and sexual violence coming forward to report to the police and access specialist support services such as refuges, and this proposed reform can be seen for what it is – a huge backwards step for combatting violence against women and girls.

As a sexual violence agency we rely on being able to refer to the specialist support and critical safety net that our refuges provide to some of our most vulnerable clients. Without them we know women and children will be put into far greater danger as some will inevitably feel they have no choice but to go back to the vicinity and the control of the perpetrator. This will undoubtedly contribute to an increase in violence and deaths as a result of domestic abuse."

She concluded:

"The government has given commitments time and time again that they will protect domestic abuse refuges. These proposals appear to fly in the face of this commitment."

I hope that the Government will heed those warnings, rethink their reckless proposals and seek instead to implement a sustainable funding solution that protects refuges and the life-saving services they provide.

9.58 am

Chris Green (Bolton West) (Con): It is a pleasure to serve under your chairmanship, Mr Robertson. I am grateful to the hon. Member for Birmingham, Yardley (Jess Phillips) for securing this debate about such an important matter.

In Bolton, Fortalice provides a domestic abuse service with 22 flats. It provides a safe and secure environment and specialist support to women and children trying to rebuild their lives. I have seen at first hand the incredibly important service and guidance it provides to those seeking help at an extremely difficult time in their lives. I also recognise and praise the work that Bolton Council has done with Fortalice to deliver its domestic abuse service over the past 40 years.

While I am broadly supportive of the Government, ultimately local authorities, not national Government, are best placed to understand local needs for refuge provision. I am concerned that, to some extent, without statutory pressure, there could be an increase in the postcode lottery that already exists, and refuge provision could become lost among other council priorities.

There is a particular risk that the possible move to generic supported housing may not provide the secure environment and specialist support that is needed. Additionally, my local refuge has informed me that not all neighbouring local authorities have their own domestic abuse service equivalent to Fortalice. I can only expect that the variation in provision puts additional pressure on its service, and that ought not to be the case.

I am also concerned that the reforms take into account that domestic abuse refuges operate as a national network. As Fortalice raised with me on a recent visit, victims of domestic violence sometimes need to move to new areas to get away from the perpetrator. On occasion, Fortalice supports women and children not from Bolton, and as part of the network it will assist in helping those from Bolton to move elsewhere. Its service operates beyond local authority boundaries, and a wider and perhaps national model for refuge provision may suit the sector far more, as will statutory requirements to ensure universal standards.

In the Minister's response, will he say how long the Government plan to facilitate co-ordination among local councils after they have distributed the ring-fenced budget? Although Bolton has domestic abuse services, there are not universal and comparable services in all neighbouring authorities. If local authorities are to be given their own funding, there must be cohesion in provision.

The announcement of a domestic violence and abuse Bill in the Queen's Speech shows commitment from the Government to tackle domestic abuse and that supporting the most vulnerable in society is the Government's aim. While it is encouraging that more than £33.5 million has been spent since 2014, we should also consider the recommendations of the Work and Pensions Committee and the Communities and Local Government Committee and examine the benefits of a new funding structure for domestic abuse refuges, separate from the supported housing sector. Enabling councils to have a stronger role in domestic abuse services can be beneficial, but if by devolving funding to local authorities the Government remove a woman's individual entitlement to support with her housing costs, that will not improve the service and is not consistent with our desire to give the needed support. While our aims are in the right place, we have to ensure that that is still true in the delivery of the reforms.

We all recognise that reform is required. We must ensure that the postcode lottery of services is ended. The Government need to listen to these concerns.

10.2 am

Helen Hayes (Dulwich and West Norwood) (Lab): It is a pleasure to serve under your chairmanship, Mr Robertson. I congratulate my hon. Friend the Member for Birmingham, Yardley (Jess Phillips) on securing this debate, and I commend her on her long commitment and experience. I am pleased to speak in the debate as co-chair of the joint inquiry of the Communities and Local Government Committee and Work and Pensions Committee on the future of supported housing. I am pleased that the Government accepted some of the recommendations in our report, but sadly that is not the case concerning refuges.

The inquiry heard evidence from across the supported housing sector, including from Women's Aid, and I am glad that we heard oral evidence from a survivor of domestic abuse, Merida Taylor, who had spent time in a refuge when she fled from her abuser. She spoke extremely eloquently and powerfully about how desperate she was at the time she entered the refuge and how the refuge helped her to rebuild her life.

We heard evidence about the life-saving necessity of refuges, in a context where two women a week are killed by a partner or former partner in England and Wales, and the particular and specialist role that refuges play in supporting traumatised women and children. We also received evidence on the intense funding pressures that refuges have come under since 2010 and the extent of closures: 17% fewer refuge services were run by specialist refuge providers in 2014 than in 2010, and there are parts of the country where there is now no refuge provision at all. The last refuge in Cumbria closed in 2016, for example, creating a postcode lottery and resulting in a situation where 60% of referrals to a refuge in 2016-17 were refused. The current network of refuges is able to address less than half of the need for women and children fleeing abuse.

Refuge provision is unique within the supported housing sector in that it is not a local service. Two thirds of women entering a refuge do so outside their own local authority area. Refuge provision needs to be able to accommodate women away from their home for their own safety. The risk of being killed by a former partner is highest in the year after the relationship has broken down, so women need to access refuges away from the perpetrator they have fled in order to be safe. The current system relies on local authorities recognising the need for refuge provision and choosing to fund it on the basis that women from their area will be able to access refuge provision in another local authority area when they need it, but that is in a context where the overwhelming majority of funding for refuges comes through the local housing allowance, which is itself not fit for purpose because of the Government's cap, which is resulting in real-terms cuts year on year. Nevertheless, it is a national funding source, meaning that the level of local authority grant is currently proportionately low, which limits the extent to which refuge provision competes with other demands on increasingly limited local authority resources and enables services to be responsive to demand.

Our inquiry report recommended that the Government work with Women's Aid to establish a national network of refuges to ensure that reciprocity among local authorities is not left to chance; and that there is an even and adequate level of provision to meet the need for refuge places, to keep every woman and child who needs a refuge safe. It is therefore completely unacceptable that they chose to reject that recommendation and have instead announced that refuges, along with all other types of short-term supported housing, will be funded entirely by local authorities. They have explicitly ignored the main conclusion the inquiry drew: refuges have a distinct set of characteristics that make them unique within the supported housing sector, which demands a bespoke approach.

To reference a different but relevant example, levels of homelessness in the UK are a national scandal. In response to the public outcry and the highly visible increase in rough sleepers, the Government have announced

[Helen Hayes]

a national approach to rough sleeping. Domestic abuse is an almost entirely invisible problem, but it is nevertheless a deadly presence in every community across the country. It is just as much of a national scandal as rough sleeping, and it demands the same level of commitment from Government to ensure that every woman and child who is fleeing an abusive home can find a place in a refuge where they can be safe and from which their lives can be rebuilt. I ask the Minister to reconsider the inquiry's recommendation and to establish a national network of refuge provision across the country for every woman and child who needs it.

10.7 am

Luke Graham (Ochil and South Perthshire) (Con): It is a pleasure to serve under your chairmanship, Mr Robertson. I thank the hon. Member for Birmingham, Yardley (Jess Phillips) for bringing this important debate. Domestic violence is an awful crime that disproportionately impacts women. For every three victims of domestic abuse, two will be female and one will be male. In 2015-16, 4.4% of men and 7.7% of women were victims of domestic abuse. That is 716,000 men, and 1.27 million female victims: roughly equivalent to the population of all 12 of the constituencies of my Scottish Conservative colleagues and I.

The issues raised this morning have revolved around gender, but it is important to highlight that it is not just gender that defines domestic abuse. Younger people are more likely to fall victim to domestic abuse. Men and women who are separated or divorced are more likely to suffer from partner abuse. Those in workless or long-term unemployed households are more likely to suffer from domestic abuse, as are lesbian, gay and bisexual men and women, who are often doubly likely to suffer.

David Simpson (Upper Bann) (DUP): The hon. Gentleman mentioned young people. Does he agree that we have a difficulty with young people in their teens suffering domestic abuse within families? It has a psychological impact on them and they believe it is the norm to carry it on into their relationships.

Luke Graham: I thank the hon. Gentleman for his contribution. Evidence does support that. That is why it is so important that refuges and other Government services are properly funded to ensure that interventions can be made and the direction and trajectory of young people's lives altered.

Several members of my family have been the direct victims of quite extreme domestic abuse and, through luck and their own strength, energy and determination, they have been able to change that trajectory and ensure it was not repeated in future generations. I think it is down to their character and luck that they have been able to do that. That is not afforded to everyone, and that is where Government must intervene.

Jess Phillips: It is a well-trodden theory that people who live in domestic violence situations go on to perpetrate that violence, but actually they are much more likely to become victims of domestic violence than they are to perpetrate it. I do not want the message to go out from this debate that someone who has a terrible time in their childhood home will also end up being a wrong 'un—that is simply not the case.

Luke Graham: I hope that the hon. Lady has not misinterpreted anything I have said, and I do not think the hon. Member for Upper Bann (David Simpson) was saying that either. People in such situations are more likely to become victims, but a whole cycle of abuse is created that involves both victim and perpetrator. If the hon. Lady listens to the content of my speech, that is exactly what I am saying. That is why we must tackle this issue, and why there should be more funding for refuges and other support mechanisms.

Funding for refuges is devolved throughout the UK to local authorities across England, Wales and Scotland, and the UK Government are proposing some of the ring-fenced grants that hon. Members have already outlined. The Scottish Government equality unit has funded individual organisations that have been combating abuse on an individual basis, especially for women and girls. Although that budget has dropped, it has been supplemented by funding from other justice budgets. I applaud much of the work done by the Scottish Government, local authorities, and those SNP Members who have done so much to champion this important issue.

In this case, however, perhaps devolution is not the answer, and I take some of the points made by hon. Members and the Women's Aid network that devolving this matter to local authorities might mean a difference in standards across the United Kingdom. That is something that I, and my constituents, would not want. We need more joined-up thinking on this issue so that refuges are linked with physical, social and mental health services, and so that when people are victims of these terrible crimes, they can get the support that is needed, connect to a network that will help them, and alter the course of their lives. If someone has had an unfortunate start, they should have the opportunity to have that corrected and see a better way forward.

As I said, some members of my family have been victims of domestic abuse, and I know that they would not care which level of Government was providing the service; it is about knowing that there is a proper standard wherever people live in the United Kingdom. It is important that as a country we make a clear statement that the United Kingdom does not accept domestic violence. We must ensure a standard level of provision throughout our country that supports victims and ensures that the course of people's lives can be changed, if not through family and friends then through Government intervention.

10.12 am

Julie Cooper (Burnley) (Lab): It is a pleasure to serve under your chairmanship, Mr Robertson, and I pay tribute to my hon. Friend the Member for Birmingham, Yardley (Jess Phillips) for making a powerful speech on a subject that she knows a great deal about. She has already raised many important points, but I want to add something about the current state of affairs.

In the north-west last year there were 140,000 reported incidents of domestic violence, and some of those women are most at risk when they take a step to leave—that is

when they need us; that is when they need a refuge. Last year in my constituency 359 women benefited from the refuge service, as did 761 children. Sadly, however, 373 women were unable to access a refuge because it was full, and 593 children were also unable to be admitted. It is no good us putting signs on the backs of toilet doors, reaching out to women and saying, "Come and get help", if there is not enough capacity in the system. As my hon. Friend said, refuges are more than just a bed, and the support that women receive there is special. The physical effects of abuse can heal, but the emotional and mental effects can last a lifetime. A planned environment of therapeutic support, counselling, and help to access services such as housing, benefits and legal advice is needed for a victim to become a survivor.

Refuges are unique and the Government must recognise that. I implore them not to view refuges as part and parcel of general housing need. Universal credit does not work for women in refuges because it is paid in arrears and claim times are protracted. Refuges need funding that is timely, reliable and flexible. Above all they need long-term sustainable funding. For too long refuges have struggled on, living hand to mouth, and never able to plan provision from one year to the next.

A couple of weeks ago I hosted a reception in Parliament to mark the opening of Jane's Place in Burnley. Jane's Place is a specialist refuge named in memory of Jane Clough who was brutally murdered by her ex-partner. It is a refuge for women who are victims of domestic violence and who have additional complex needs such as alcohol or drug abuse issues. I know that some Members present came to that reception, and I thank them for giving up their time. This issue is important and it meant a lot, not least to Jane's parents who were in attendance. I pay tribute to the amazing staff at Jane's Place. The refuge is a fantastic place that has at its heart a team of highly trained specialist staff who make it their business to rebuild lives. I hope that the Minister is as shocked as I am that funding for those well-qualified, dedicated staff is secured only until March 2018. How on earth can the board and the management team plan to deliver services with such funding uncertainty hanging over their heads? We need more centres like Jane's Place.

The EU victims directive includes an obligation for the authorities to establish and ensure access to specialist support services. I know that we are leaving the EU, but let us take this opportunity to up our game. Current provision is woefully inadequate and, quite frankly, shames us all. When demand is increasing and refuges are closing, only 40% of demand is being met. We must do more and we must do it now, because this really is a matter of life and death.

10.16 am

Alex Norris (Nottingham North) (Lab/Co-op): This is the first time I have served under your chairmanship, Mr Robertson, and I am grateful for the chance to raise an issue that I care deeply about. I congratulate my hon. Friend the Member for Birmingham, Yardley (Jess Phillips) on securing this important debate. She has long fought for survivors of domestic violence and abuse, and I am glad that I can join her in that fight today.

For six years before coming to this place I held a number of special responsibilities on Nottingham City Council, one of which was commissioning Nottingham's excellent, well-run domestic violence services. Whether Equation and its nation-leading prevention services, Women's Aid with its advocacy and survivor support, our sexual violence support service, which is only ever one call away for survivors whatever the time, day or year, or the women's centre, which acts as a fulcrum for those critical services, there is an excellent range of things happening in Nottingham. I rise today to speak up for those services, and for the thousands of survivors of domestic abuse who we believe live in my constituency.

I learned a lot during those six years, but one thing that particularly stuck in my mind is that this is a complex and fragile ecosystem of services, and that change in one part of the system can have an unintended consequence in another. There is also a complex interrelationship with other communities, which we mess with at our peril. Often a well-meant, slightly tangential piece of public policy can have a catastrophic impact, and the issue under discussion today is a clear example. We understand why Ministers want to consider short-term housing in line with wider work on universal credit, and we understand that that is a wide-ranging piece of work. We also understand that refuge provision is just 1% of that sector, but for survivors who take that difficult step and need those services, it is about 100% of their lives on that night.

There are two unintended flaws in the current plans that I hope Ministers will reflect on. First, it has been proposed to group refuge provision with other short-term housing services, but refuges fulfil a completely different function from other services such as those for people with substance abuse issues or care leavers. I fear that aggregating refuges will lead to generic commissioning and risk losing the value of refuge provision.

My second point concerns local devolution of the funding for services. I am a big fan of devolution and I believe that decisions should be taken at the lowest appropriate level. I do not believe, however, that the lowest appropriate level for refuge provision is local authority level. Domestic violence services are a complex local ecosystem, but they have a significant impact across local boundaries. The safest place for a woman in Nottingham who is fleeing a violent relationship may well be Birmingham—again that is completely different from the rest of the services in that local devolution plan.

Such measures run counter to the strategy for ending violence against women and girls that was outlined by the then Home Secretary, now Prime Minister. On page 29, that strategy references the need for services to

"collaborate across local authority and service boundaries"

and page 32 states:

"We will strongly encourage local areas to collaborate with one another through the fund so that partnerships join up across borders to meet the needs of women who may flee to seek support."

I cannot see how the proposals that we are being consulted on support that aim.

I hope the Minister will shine some light on the ongoing funding from the Department for Communities and Local Government that was mentioned by my hon. Friend the Member for Burnley (Julie Cooper). Support has been given in the past and has been greatly appreciated, but those running Nottingham central Women's Aid refuge do not yet know whether the funding will continue from 1 April for the next two years. I know Ministers

[Alex Norris]

are evaluating the success of the previous two years, but they need answers because we will soon get to the cliff edge of 90-day redundancy notices. It is a question of good planning for 1 April, so I hope something can be done, perhaps even today.

I recently completed my first six months in this place. Progress can be slow and frustrating, but things can be done immediately about this issue. This week refuges could be told about DCLG funding, so that they can plan properly, and by 23 January the well-meant but bad idea that we have been debating could be shelved.

Several hon. Members *rose—*

Mr Laurence Robertson (in the Chair): Order. After the next speaker we shall have to drop the time for Back-Bench speeches to three minutes.

10.20 am

Mohammad Yasin (Bedford) (Lab): It is a pleasure to serve under your chairmanship, Mr Robertson. I thank and commend my hon. Friend the Member for Birmingham, Yardley (Jess Phillips) for her tireless work on this important issue.

The Government's planned funding changes for supported housing could see wholesale closures of domestic violence refuges. This latest threat comes after years of sustained cuts to domestic abuse support services. Since 2010, a staggering one in six refuges has closed its doors, and under the proposals that number will only rise. At the same time, recorded rates of domestic abuse have sky-rocketed. It is staggering that on average two women are killed by their partner or ex-partner every week in England and Wales. In the Bedford Borough Council area there are two domestic violence services—Butterfly House and Stonewater Asian women's refuge, as well as Victim Support. Those services are a lifeline for women and children living in the hell of domestic violence. By the time women end up in refuges, they have endured many years of being so controlled that they have almost lost the ability to think for themselves. I have been told about women in refuges who did not know how to get a bus and had no concept of the value of money. They had lived under such extreme levels of control that they had essentially been held in captivity—they were told what to do, eat and wear, and when to speak. A woman was even beaten just for opening the curtains.

The refuges in Bedford are not just a housing solution. They are a place of safety where those who have suffered domestic violence can learn to be independent and empowered, and where they regain confidence and the sense of self so brutally taken from them. Removing women's refuges from financial support via the welfare system and replacing that support with ring-fenced money to local councils will mean that funding will be shared with other homeless people, offenders and other groups, which will make it even harder for vulnerable women to access benefits and help. We must recognise that refuges are distinct from other forms of short-term supported housing and fund them accordingly.

The refuges in Bedford are already on a very tight budget, barely breaking even. Further uncertainty about funding only makes things more unsustainable. We cannot afford to lose those vital services in Bedford. Most of the women in refuges have no recourse to money. Their only choice without a refuge is destitution or more abuse. We must ensure that we are not complicit in further abuse. I urge the Government to implement the recommendations from Women's Aid to create a new funding model that covers refuge support and housing costs, and meets the national need for bed spaces in services that are resourced to meet women's and children's needs. It is a matter of life and death.

10.24 am

Jim Shannon (Strangford) (DUP): I congratulate the hon. Member for Birmingham, Yardley (Jess Phillips) on bringing the issue forward. Her passion about the subject is obvious, and I thank her.

The issue is one that we are all too familiar with in my constituency office, and I expect that is true for all those taking part in the debate. A woman, often with young children, comes in asking for help with housing, yet the marks on her face and the flinches of the children when someone goes to ruffle their hair say more than a two-hour interview ever could. I used to be able to secure a place in the local women's refuge on the border of my constituency for someone in short-term need, but the cut in funding is making helping those women—and, increasingly, some men who suffer domestic abuse—more and more difficult. Although Women's Aid staff do a phenomenal job in providing support, and go far beyond the call of duty, they cannot house someone in need or take someone out of a dangerous situation if there is nowhere for them to go. If there is no dedicated funding we leave people feeling that they are alone and stuck in their circumstances. That must be addressed.

There is no reliable prevalence data on domestic abuse, but according to figures from the crime survey for England and Wales, 1.3 million women experienced domestic abuse in the past year and 4.3 million women have experienced domestic abuse at some point since the age of 16. That suggests the magnitude of the issue. It is important to note that that data does not take into account important information about context and impact, such as whether the violence caused fear, who the repeat victims were and who experienced violence in a context of power and control. There are many issues to take on board.

Gavin Robinson (Belfast East) (DUP): The latest figures were that 738 ladies were accommodated by refuges in Northern Ireland, but 270 were not, so whatever funding there is for provision, there is an additional 30% need. Women's Aid would love to help but cannot.

Jim Shannon: I thank my hon. Friend and colleague, and will come on to some of the Northern Ireland figures, which are important.

On average two women are killed by their partner or ex-partner every week in England and Wales. Domestic abuse-related crime is now 10% of total crime, and I point out to the Minister the impact and the anomaly in financing. The figure is an increase of 2% since the previous year. On average the police receive some 100 calls an hour relating to domestic abuse. During a census period one in five women resident in a refuge and one in six of those using community-based services had seen criminal proceedings being taken against the

perpetrator. We need the perpetrators of the violence to be held accountable, and it is clear that that they are not.

The prevalence of domestic abuse is not decreasing in the way that we would hope would happen, when new generations of people are being raised and schooled in dealing effectively with their emotions. The Police Service of Northern Ireland released an updated statistical bulletin for Northern Ireland in September 2017, showing a continual increase in the number of people reporting domestic violence and needing support to deal with it. Domestic abuse incidents have increased year on year since 2004-05, and the Northern Ireland figures are enormous, with almost 30,000 incidents in the past 12 months. That is a continuation of the increase and represents the highest level recorded since 2004-05. Domestic abuse crime rates have tended to fluctuate but have increased in the most recent 12 months to about 15,000. Again, that is the highest level recorded since 2004-05.

We need to ensure that there is funding available to help to deal with the after-effects of domestic violence. There is an increasing need that must be met, otherwise we shall consign more generations to a vicious circle of abuse. I said last year in a similar debate that action must be taken in the House, and I reaffirm that. We must take affirmative steps and we look to the Minister for the necessary leadership and support—for ring-fencing of funding to enable people to come out of domestic abuse to a safe place. We must secure that funding today through the debate.

10.28 am

Bambos Charalambous (Enfield, Southgate) (Lab): It is a pleasure to serve under your chairmanship, Mr Robertson. I congratulate my hon. Friend the Member for Birmingham, Yardley (Jess Phillips) on securing this important debate.

Women who need to escape their fate at the hands of an abuser need somewhere safe to go, but the effect of the Government's new funding model would be to block off those escape routes. Since 2012, a third of all local authority funding to domestic and sexual violence services has been cut. Many refuges have already closed and many women seeking refuge are turned away. Now the Government plan to remove vital funding for refuges, with changes to housing benefit. Those changes will no doubt see the closure of more and more refuges.

How can the Government seriously claim that they are supporting victims when their policies will force refuges to close? One woman murdered is one too many and one refuge closing is one too many. The Conservative manifesto claimed that the party would introduce a "landmark" domestic violence Bill and claimed that it would take action to support victims of domestic violence. Why, then, fiddle with the funding that provides that very support? There seems to have been no joined-up thinking about the possibility that housing benefit rules would have an adverse impact on the provision of refuges for survivors of domestic violence.

Just three days ago at my surgery I had a visit from a woman—I shall call her Nora—who is a survivor of domestic violence and is also going through the additional trauma of the legal system in the matters of access and divorce, with no representation. She has been at the local refuge for almost a year. After 52 weeks, her housing benefit will cease because she is no longer occupying her former home, and that is classified as a temporary absence under housing benefit rules. Nora is petrified that she and her two daughters, both under the age of eight, could potentially be street homeless in the run-up to Christmas. What sort of system have we created that allows that to happen?

The Bill will be toothless unless it gives funding for services, benefits and social housing. Labour, in its manifesto, pledged direct and stable central funding for women's refuges and rape crisis centres, in stark contrast to the Government's current plans to take refuges out of the welfare system and give a ring-fenced grant to councils that is not exclusively for refuges. The grant would also be for other short-term housing needs, and it sets up yet another barrier for women, who again have to prove their worthiness along with many other vulnerable people in society. This Government's actions are creating a hostile environment for abused women, one laden with scrutiny, judgment, stigma and barriers to support. The Government are about to block off the last escape route for women in life or death situations. They should listen to Women's Aid, revisit their funding proposals and secure the long-term future of refuges, the services of which we so desperately need.

10.30 am

Mr George Howarth (Knowsley) (Lab): I also congratulate my hon. Friend the Member for Birmingham, Yardley (Jess Phillips) on giving us the opportunity to debate this important issue and on the way she presented the argument. I must also mention my debt of gratitude to Angela Cholet, the chief executive of Ross House in Knowsley, who has provided me with some important briefing for the debate.

In Knowsley, Ross House received 168 inquiries for refuge space for women. That is a 61% increase on the previous year. They were only able to accommodate 50 women, which resulted in 118 women and their children being turned away. Those 50 women represent a 28% increase on the previous year, and they were accompanied by 69 children, a 92% increase on the previous year.

I have a few questions for the Minister on the new system. As he is aware, housing benefit is currently the only consistent form of refuge funding that contributes nationally to enable a network of refuges to operate, even if that is often on a shoestring. The new grant for funding covers all supported accommodation. I ask the Minister, "Who chooses?" Will the local authority have to choose who gets what? If I am right in that assumption, will it be aligned to current agreed housing benefit rates for refuges? Will they provide the grant based on each woman living in a refuge, or as one lump sum no matter how many women are in the refuge? That could have enormous potential for refuges to turn women away because they simply cannot afford to fund them.

I will briefly touch on one more issue, which is how the costs of children are covered. Those children, who have often gone through traumatic circumstances, need particular support; I think my hon. Friend the Member for Burnley (Julie Cooper) referred to therapeutic and counselling support. I ask the Minister to address how he expects children's needs to be met through the new funding arrangement.

10.33 am

Julia Lopez (Hornchurch and Upminster) (Con): I thank the hon. Member for Birmingham, Yardley (Jess Phillips) for leading a very important debate. I know it is an issue for which she has immense passion. I hope she would also acknowledge the personal work the Prime Minister has done in taking a more comprehensive approach to domestic violence and in acknowledging that it is not always simply a physical thing; I think particularly of the new crime of coercive control and the draft domestic violence and abuse bill. I hope they will build on the progress made since 2010: an increased conviction rate in domestic abuse-related prosecutions and a 22% fall in the number of women killed by their partner or ex.

My local borough, Havering, funds its domestic violence services through external grants from bodies such as the Mayor's Office for Policing And Crime, and the council has been able to increase the number of independent domestic violence advocates to support victims. None the less, Havering has unfortunately seen an increase in domestic violence incidents, and the council is working to ensure that victims are properly supported. That includes counselling services, London's only helpline exclusively for male victims, and bed spaces across two refuges.

The council and police in our borough have been working hand in hand. Last month, in a crackdown on domestic violence, more than 35 people were arrested as part of the Met-wide campaign, Operation Dauntless. Police used local authority knowledge in identifying those perpetrators, and that kind of knowledge can be vital. I know that my local schools also play an important role in flagging households in which there is violence. The new funding model ring-fences funding for short-term supported housing, and gives councils greater autonomy in basing services on that knowledge.

We also need to help to give victims the confidence and support to extricate themselves from toxic relationships and try to instil faith in their own strength to live without a violent or abusive partner. Refuges can play a crucial role in that. The Government's proposal does not change the entitlement to those services. None the less, I am glad that the Government are taking a pragmatic approach by committing to a review of the new funding model in the new year to ensure that it is working as it should.

Mr Laurence Robertson (in the Chair): I would like to leave one minute for the mover of the motion at the end.

10.35 am

Gavin Newlands (Paisley and Renfrewshire North) (SNP): It is a pleasure to see you in the Chair, Mr Robertson. I apologise to you and hon. Members present for not being here at the start of today's debate; I was involved in an accident on the way here. I appreciate your forbearance.

I start by congratulating the hon. Member for Birmingham, Yardley (Jess Phillips) on securing today's debate, and the Backbench Business Committee—of which she is a member; I am sure that is just a coincidence—on granting it. Since we were both elected to this place in 2015, she and I have both spoken in a number of these debates. I hasten to add that we have always spoken on the same side; I would not dare do otherwise. The hon. Lady always speaks with passion, knowledge and wisdom on the subject that are unrivalled in this place. I am told that she continued in that spirit today, particularly in making the point that it is not just about ensuring enough accommodation is available, but about ensuring there is enough suitable accommodation that meets the needs of the women and children who will be housed there.

To be honest, I find it shameful that we have to debate this issue yet again. Wherever possible, I try not to be overly partisan when discussing domestic violence. Indeed, I have credited the Prime Minister and her Government when they have done the right thing in tackling abuse. However, no amount of warm words can hide the fact that this Government have presided over refuges being forced to close, and have allowed the uncertainty over funding security for existing refuges to continue for far too long. Quite simply, that is not good enough. As we have heard, the Government's proposed funding mechanism for supported housing fails to recognise the distinct nature of refuges in comparison to other forms of supported housing. Women's Aid have said that if those proposals are left unchanged and the UK Government push ahead regardless, the impact on provision of refuges would be catastrophic.

The issue should not come as a surprise to the Government. Domestic violence support groups such as Women's Aid and Refuge, along with several others, and many of us in this place have regularly highlighted the dangers of the proposed funding model for short-term supported housing, particularly refuges. In addition, both the Work and Pensions Committee and the Communities and Local Government Committee have warned the Government that a failure to recognise the distinct challenge will cause serious problems, and that the Government should work with Women's Aid and others to devise a specific funding solution to help to support refuges.

I raised this issue with the Prime Minister at Prime Minister's questions, calling on her to put a stop to the plans and to introduce a fair, sustainable and specific funding model to support those services. Regular viewers of PMQs will not be shocked that I did not receive an answer to my question. I had hoped that it would wake the Prime Minister to action, given her previous track record on domestic violence. Unfortunately, as we now know, that did not happen. I sincerely hope the Government are not banking on the hon. Member for Birmingham, Yardley, or indeed the rest of us, giving up and accepting the status quo.

I suggest to the Minister that even one refuge being forced to close because of the funding model should force a rethink. The fact that as many as half of them could close, leaving up to 4,000 women and their children with nowhere to go at the most vulnerable point in their lives, suggests that an alternate solution must be found. Anything else is indefensible.

I have brought up the Istanbul convention many times in this House. The UK Government have rather optimistically oft stated that the only aspect of the Istanbul convention that they fail to meet relates to extraterritorial offences. I disagree. I do not think the Government meet elements of articles 7 and 14 in relation to comprehensive and co-ordinated approaches to prevention and education.

Article 23 of the convention clearly states that Governments should provide

"appropriate, easily accessible shelters in sufficient numbers to provide safe accommodation for and to reach out pro-actively to victims, especially women and their children."

That clearly is not the case. I welcome the fact that the UK Government are committed to ratifying the convention, but only if they will take their responsibilities within the convention seriously, and not treat it as some tick-box exercise while giving themselves a pat on the back.

I have said time and again that the continuous improvement in legislation over the last few years is welcome, and I look forward to the Government bringing forward the domestic violence and abuse bill in the new year. However, that progress will be seriously undermined if the Government refuse to properly fund DV support services, and in particular refuges.

The true mark of any progressive or promising legislation is that it is still progressive and promising when it reaches the point of need. It is worth highlighting that in Scotland, we have some of the strongest rights for homeless people in the world, which creates a legal safety net for women fleeing domestic violence. I thank the hon. Member for Ochil and South Perthshire (Luke Graham) for his uncharacteristically kind words about the Scottish Government.

The Scottish Government state that

"Domestic abuse and violence against women is a fundamental violation of human rights"

and that Scotland will not tolerate it. We have introduced the Domestic Abuse (Scotland) Bill, which has had its First Reading and will, if passed, provide for a specific legal definition and offence of domestic abuse. We are also investing £30 million through the equality budget in projects supporting a range of frontline specialist services working with women and children who have experienced domestic abuse, and £20 million from the justice budget supports initiatives to tackle violence against women and improve the justice response.

Will the Minister commit to meeting the Government's international obligations and particularly our commitments to the Istanbul convention? Can he update us on the Government's progress on ratifying the Istanbul convention? The recent report suggests that zero progress has been made since the passing of Eilidh Whiteford's private Member's Bill. Will he commit to working with Members of Parliament, Women's Aid, IC Change and others to conduct a full audit on how the UK is equipped to meet the requirements that allow ratification of the convention?

Today's debate is of the utmost seriousness. If the proposals are left unchanged, the Government will remove the safety net for people fleeing domestic violence. We simply cannot allow that to happen. There is no excuse for the Government to continue to ignore this danger. They must take action and provide protection for those who need our help the most. I will give the last word to Women's Aid CEO Katie Ghose, who said:

"The Government's proposed reforms to supported housing will dismantle our national network of lifesaving refuges and put the lives of women and children trying to escape domestic abuse at risk. This is a matter of life or death."

I could not agree more.

10.42 am

Melanie Onn (Great Grimsby) (Lab): It is a pleasure to serve under your chairmanship, Mr Robertson. I join other Members in congratulating my hon. Friend the Member for Birmingham, Yardley (Jess Phillips) on securing the debate.

We are talking today about funding for women in the most frightening and desperate of circumstances. I feel that there is a double injustice: not only are these women subjected to abuse and violence, but it is they, and not the perpetrator, who have to leave their home with their children, uprooting them from friends, family and schools.

Providing shelter for anyone able to flee an abusive relationship must be a basic requirement of Government in a country where two women each week are killed by their current or former partners. The security that a refuge provides is the minimum we should be able to guarantee for survivors. Unfortunately, we are not currently fulfilling that guarantee, with 60% of referrals to refuges being declined. On any given day this year, around 90 women and their children were turned away from a refuge because there was not capacity to take them in. We heard from my hon. Friend the Member for Burnley (Julie Cooper) and my right hon. Friend the Member for Knowsley (Mr Howarth) about that exact situation. How heartbreaking for a victim who has made the incredibly brave step of seeking safety to then be told that there is nowhere for them to go.

As previous speakers have noted, this is not a niche issue. There were more than 1 million recorded cases of domestic violence and abuse last year. Although their record is far from perfect, the Government have recognised the terror that victims of domestic abuse face. They promised new legislation to provide greater protection to victims in this year's Queen's Speech, including welcome measures to prevent victims from having to face their former partners in court. That is something I have called for, and I joined others in delivering a petition to Downing Street on that subject. In her previous role as Home Secretary, the Prime Minister introduced Clare's law and made coercive behaviour an offence; both those measures were extremely welcome. All of this prompts a question: at a time when domestic violence is so prevalent and when domestic abuse-related offences now account for one in three of all violent crimes, why are the Government holding back the provision of refuge for victims?

Frankly, the Government appear to have stumbled into their current position on refuges. Changes to funding were initially announced two years ago in the 2015 autumn statement, capping housing benefit at local housing allowance rates and ignoring the significantly higher costs that supported housing incurs compared with general housing. My hon. Friend the Member for Dulwich and West Norwood (Helen Hayes) talked eloquently about the inadequacies of that decision. The effects of the policy had obviously not been thought through. After the likely effects were made clear, implementation of the policy was delayed, and a review was then set up. Just ahead of this year's Budget, it was finally dropped. Thankfully, a better solution has been found for the majority of supported housing, but the proposed model for very short-term supported housing—meaning shelters for people in the most extreme and desperate of crises—is a different matter.

[Melanie Onn]

The Women's Aid survey of refuge providers tells us that the new funding model could force over half to close or reduce their provision, equivalent to 4,000 extra women and children being refused the services they need because of a shortage of spaces and resources. In the light of the points made by my hon. Friends the Members for Coventry North East (Colleen Fletcher), for Nottingham North (Alex Norris), for Bedford (Mohammad Yasin) and for Enfield, Southgate (Bambos Charalambous), we really cannot allow that to happen. The prospect should send shivers down the spine of anyone who wishes to tackle the burning injustices present in Britain today.

Following the coalition Government's decision to transfer the support element of funding for refuges into overall local authority budgets while making huge cuts to councils' funding, 17% of specialist refuges had closed by 2014. It is little wonder that putting the entirety of state funding for refuges into the hands of local authorities, which are already under pressure, has caused so much concern for my hon. Friend the Member for Birmingham, Yardley and others working in the sector.

We have seen the consequences of the past two years of uncertainty about the future of funding for supported housing, with 85% of new schemes put on hold, denying vulnerable people the homes they need. These proposals could see that same damaging uncertainty locked into the short-term supported housing sector if the funding is liable to change from one year to the next. Some local authorities currently provide no refuge support at all—my hon. Friend the Member for Birmingham, Yardley highlighted the Prime Minister's own council area. How will that be factored into the new system without requiring shelters in areas that have above-average provision to cut down?

When the shadow Children's Minister, my hon. Friend the Member for Batley and Spen (Tracy Brabin), came to my constituency last month, we visited my local refuge, which is run by the indefatigable Denise Farman. It provides fantastic facilities, with special play areas for children and extra bedrooms built into its housing provision. It also provides counselling support through play for children. The refuge receives no extra funding for that, but provides it because it is a necessary part of support for families. These places are just as important for the children as they are for the women, particularly because in two thirds of abusive relationships, the children are directly harmed, while they must also be suffering mentally from having to witness extreme abuse.

The hon. Member for Sutton and Cheam (Paul Scully) said that the majority of victims going to shelters flee their local area and that this is a national issue, but the Government's consultation document makes reference to local need. This really is a national issue that demands that support be provided for victims across the country.

Having read the Government's reasons for the changes to funding, I cannot see any justification for the provision of short-term supported housing to be removed as a duty of the central welfare system. Can the Minister try to provide one today? If the change is made and has the effect that every provider of women's refuges believes it will, where will the women go who benefit from the information made available to them through Clare's law? What about the women who the domestic violence and abuse Bill seeks to embolden to contact the police? How likely are they to pick up the phone to report an abusive partner if they are unable to find anywhere to go?

10.49 am

The Parliamentary Under-Secretary of State for Communities and Local Government (Mr Marcus Jones): As ever, it is a pleasure to serve under your chairmanship, Mr Robertson. I begin by offering my thanks to the hon. Member for Birmingham, Yardley (Jess Phillips) for securing this important debate and for sharing her expertise in supporting the victims of this abhorrent crime. Her contribution and the many other contributions to the debate were made with great passion and great insight into the utter devastation that women and children in crisis face. She gave vivid and heart-wrenching examples. I pay tribute to the people who work tirelessly day in, day out, to support victims of domestic abuse. She and I seem to have some differences of opinion at the moment—I accept that—but I am absolutely committed to doing everything I can to help these incredibly vulnerable families. I know how important refuges are for their safety and for giving them the opportunity to start to rebuild their lives.

The hon. Lady asked a number of questions, and I hope to be able to respond to most of those in my speech. I apologise if I do not have time to respond to all the questions asked by hon. Members. I undertake to write to them if I do not cover the points raised or in order to deal with them in more detail.

The Government remain committed to funding vital refuge services. Since 2014, we have dedicated £33.5 million in direct grant funding to local authorities for refuges, safe accommodation and other services. In February, we announced that 76 projects across the country, covering 258 local authorities, would receive a share of the £20 million domestic abuse fund, creating more than 2,200 bed spaces and supporting more than 19,000 victims. Last month, we confirmed that we would support a further four projects. We also part-fund the Women's Aid Routes to Support secure database. That provides information on refuge vacancies across England, enabling staff on the national domestic violence helpline to direct callers to the appropriate refuge. In 2015, we commissioned and funded the Women's Aid No Woman Turned Away project to provide extra caseworker support to victims unable to access a refuge space. Last year, more than 400 women were supported.

The hon. Member for Birmingham, Yardley and others raised a number of concerns about the proposals to reform funding for supported housing. Let me be absolutely clear: the amount of funding that we are putting into supporting victims is not changing. Under the new funding model, all housing costs—core rent and eligible service charges—will be funded by a ring-fenced grant to be distributed by local authorities, and we intend that ring fence to remain in the long term. We also intend to use grant conditions to ensure that the funding is spent where it is intended to be spent. Everyone who is currently eligible for housing benefit will continue to have their housing costs met through our funding model for short-term accommodation. Vitally, our new model removes the need for vulnerable people to have the additional responsibility of paying their rent at a very difficult time in their lives.

We are consulting organisations, such as Women's Aid, that support victims of domestic abuse, which have been mentioned by many hon. Members today. Indeed, my hon. Friend the Under-Secretary of State for the Home Department, who is with us in the Chamber, and I have met Women's Aid very recently. We will continue to discuss those organisations' concerns and we remain open to the ideas that they are putting forward. I invite the hon. Lady to meet my hon. Friend and me to discuss some of these issues in more depth, particularly appropriate accommodation, some of the examples that she mentioned and the wider issues that she raised. As hon. Members pointed out, there is a consultation on the funding model. It closes on 23 January, so there is still time for organisations to have their say, and I encourage them to do that.

It is worth noting that the proposed grant funding model for short-term accommodation will not kick in until April 2020. A number of other strands of work are ongoing to ensure that we have the refuge provision we need. The key thing that I want to mention is our review of domestic abuse services. We are reviewing how we provide funding for care and support to make it work even harder. Our priority for the review is ensuring that victims are getting the support that they desperately need, and seeing how we can improve that support. To that end, we will, by November 2018, review funding of refuge provision in England, with a particular focus on the funding of care and support for victims. As with the funding model for short-term accommodation, we are exploring all options, including a national model for refuge provision. I can say to right hon. and hon. Members that nothing is off the table. I hope that that reassures the hon. Member for Dulwich and West Norwood (Helen Hayes) and my hon. Friend the Member for Bolton West (Chris Green), who raised that point. We are certainly not ignoring what the Select Committees have said.

To inform our review, we are tendering for an audit of local authority commissioning of domestic abuse services, including refuges. That audit, together with the Women's Aid Routes to Support data and Imkaan's reports on black and minority ethnic specialist service provision, will for the first time give us a complete picture of provision across England, enabling us to assess what impact services are having and to identify any gaps in provision. Refuges are a critical part of our provision, as are the outreach services, dispersed housing and sanctuary schemes that some local authorities provide. That vital support helps victims to remain safely in their own homes, and I would like to see more councils commissioning a range of provision to meet the needs of all victims. We know that victims' needs are very diverse.

I want to mention several other things that we are doing in this context. We are consulting on new guidance with regard to improved access to social housing for victims of domestic abuse. It is really important that in our work on social tenancies we ensure that we are on the side of victims, not on the side of perpetrators. We gave a commitment in our manifesto that we would ensure that domestic abuse victims who had to flee their area would automatically be offered a lifetime tenancy in another area. There are a number of other strands of work, including the domestic abuse Bill, on which a national consultation in the widest sense is being conducted by the Home Office. We are very keen across Government that that consultation should create a national conversation about domestic abuse.

I conclude by thanking hon. Members for their contributions today. There is certainly more work to do, particularly in relation to the funding for supported housing, and we are very keen to work not just with the various charities in this space and organisations that support victims, but with Members across the House.

10.58 am

Jess Phillips: I thank everyone who has spoken in the debate. It is a pain only to have two minutes to wind up the debate, but that shows me that lots of people cared, which always makes me feel very pleased. I know that lots of people outside this building will also be very pleased about how many hon. Members from across the House cared.

I welcome the Minister's statements, but I will say that the reality on the ground never feels quite like what is presented to me at whichever Dispatch Box. I will never, ever stop pointing that out until what is said to me feels exactly like what it feels like to try to get someone a refuge bed at 10 to 5 when the office is shutting on a Friday. At the moment, that feels impossible. Until we crack that problem, we certainly have not got things right. However, I welcome the commitment of the Government. As I said at the start, I think that naivety, not malice, has led to the changes, and I look forward to working with the Government to improve the situation.

Question put and agreed to.

Resolved,

That this House has considered funding for domestic violence refuges.

Animal Welfare

11 am

Zac Goldsmith (Richmond Park) (Con): I beg to move,

That this House has considered the Government policy on animal welfare.

It is a pleasure to speak under your chairmanship, Mr Robertson. It is often said that we are a nation of animal lovers and in many respects we are a world leader in animal welfare. That is something we can be proud of.

In the months since the general election we have seen a blizzard of activity from the Government that will build on that proud record. They have committed to putting CCTV into all abattoirs to prevent abuse; they have committed to increasing the maximum sentence for animal cruelty from six months to five years; they have committed to closing down the ivory trade in the UK, to remove loopholes allowing new ivory to be sold as if it is old ivory; they are banning neonicotinoids, pesticides that are wiping out bees and many other pollinators; they are bringing in measures to tackle plastic waste that is clogging up our oceans, as we have all seen on the extraordinary "Blue Planet" series; and they are banning microbeads, those tiny particles of plastic that are causing mayhem to marine life.

On a bigger scale, we have seen over the past few years the creation of a network of giant marine protected areas. Our 14 overseas territories represent the fifth-largest marine estate in the world and include some of the most important biodiversity hotspots in the world. This Government have committed nearly 4 million square kilometres to protection by 2020—an area way bigger than India. That represents the single biggest conservation measure by any Government ever.

Despite that, there remains much to be done if we want to bring our animal welfare and environmental policy laws up to date, as we should. In this debate, I want to centre on animal welfare. It is timely that the Government have announced today that they will bring forward a new animal welfare Bill to deliver some of the commitments that have already been made.

As hon. Members know, we are putting EU environment and animal welfare laws into UK law, but there has been some controversy over one issue in particular: animal sentience.

Sir Hugo Swire (East Devon) (Con): Does my hon. Friend share my sense that there are some who have been mischievous and misleading on that subject, because they refuse to believe that the Government take animal welfare seriously and are legislating more than any previous Government have done?

Zac Goldsmith: My right hon. Friend makes the point well and I agree with him. It was reported two weeks ago, as hon. Members will remember, that MPs had voted as if they felt that animals do not have feelings. That story took on a life of its own. It became a forest fire on social media. In fact, it became the top political story of the year. I have to say, notwithstanding what he has just said, it is a wonderful reflection on the British people that they made it the top story of the year, but it was, as he has said, fake news.

There has never been any disputing the fact that animals have feelings or that animal sentience needed to be enshrined in UK law. The Secretary of State for Environment, Food and Rural Affairs made clear at that time that he intended to find the best legislative vehicle for translating sentience into law, and today, as expected and as promised, he has, in a new animal welfare Bill. Also as expected and as promised, the new rules will go further, because our sentience principle will apply to all policy decisions and relate to all animals. It will not be narrowly restricted to those policy areas under EU control, as it is today. That point was made earlier today by the Royal Society for the Prevention of Cruelty to Animals.

John Lamont (Berwickshire, Roxburgh and Selkirk) (Con): I pay tribute to my hon. Friend for raising this important cause. As a farmer's son, I know all too well the importance of protecting animal welfare. Does he agree that Brexit gives us an opportunity to strengthen our animal welfare rules and laws, so that we are putting animal welfare at the heart of our programme going forward?

Zac Goldsmith: I could not agree more with my hon. Friend and I will be making that point in more detail shortly.

The new Bill that was announced at midnight last night will also increase the maximum jail terms for animal abusers from six months to five years. Both of those commitments are enormously welcome. It is great news and I can hardly exaggerate my thanks to the Secretary of State for the breathtaking leadership he has shown since being appointed to his role, but I believe it would be a mistake not to use the opportunity of a new animal welfare Bill to create something truly comprehensive, so I want to make the case for some key areas that I believe should be included and I want to start with farming.

John Howell (Henley) (Con): Does my hon. Friend agree that preventing people who abuse animals from owning animals is a very good thing to include in the Bill?

Zac Goldsmith: I could not agree more with my hon. Friend and I thank him for making that point.

The Secretary of State has said:

"As we leave the European Union there are opportunities for us to go further and to improve… animal welfare".

Of course, he is right. For example—this goes to the point my hon. Friend the Member for Berwickshire, Roxburgh and Selkirk (John Lamont) was making—as we leave the EU, we will be able to end the live export of animals for slaughter and fattening, which is a grim process for tens of thousands of animals every year. Last year, 3,000 calves were transported from Scotland via Ireland to Spain and over 45,000 sheep were taken from the UK through continental Europe. Under EU single market rules, the UK has not been able to stop that—we have tried, but we have not succeeded. I am thrilled that Ministers have indicated that they are minded to act as soon as we are allowed. If we do, we will be the first European country to do so and will be setting what I hope will become a trend.

Procurement is another area where we can make a relatively easy and significant impact. The Government spend around £2 billion a year on food for schools, hospitals, prisons and military barracks. Currently, that food is required to meet only a very basic standard of animal welfare—basic standards that still leave chickens in tiny cages, pigs in cramped and stressful conditions, cows in sheds all year long and so on.

Neil Parish (Tiverton and Honiton) (Con): I congratulate my hon. Friend on securing this debate. The five-year sentencing for animal cruelty is excellent. We need to procure food that is of a very high standard and British. We also need to ensure that, as we do our Brexit deals in future, we do not allow in food with much lower welfare standards, so that our farmers who have high-quality and high-welfare standards also have a real chance to maintain a competitive edge.

Zac Goldsmith: My hon. Friend makes an extremely important point. I am reassured by a number of statements that have been made by the Secretary of State in relation to that. Putting sentience into UK law across the entire range of Government policies will also help us ensure that we do not lower our standards in return for trade deals.

Kevin Foster (Torbay) (Con): I congratulate my hon. Friend on securing this debate. Does he agree that it is very welcome that the Secretary of State has made clear that our sentience law will be much stronger than both French and EU law, which declares animal sentience, but then allows disgraceful practices such as cock fighting and bull fighting?

Zac Goldsmith: That is a very good point. The sentience principle in EU law has been held up by some as a gold standard, but it is a gold standard that has allowed foie gras, veal production, fur farming, in some cases donkey torture, bull fighting and much more besides. It is not a gold standard. We are setting a gold standard. We are going to go so much further, which we should be proud of.

Returning to procurement, we have £2 billion at our disposal, which we currently spend each year on food of a pretty low standard. In my view, that is a wasted opportunity. There are hundreds of schools and hospitals in this country already, including in my own constituency, that are choosing to use their buying power to support suppliers who guarantee higher standards. The Government need to take that best practice and make it into the norm.

Sir Hugo Swire: My hon. Friend is making some extremely good points. Does he agree that one thing that has hitherto prevented our schools and particularly our armed forces from buying British products is EU procurement legislation? When we leave the EU, we will not have to do that, so we will be able to sell our own British-made products to British institutions.

Zac Goldsmith: That is exactly right. That has been a barrier all the way along from the Government's point of view. However, they can now begin to take that best practice and make it the norm. I would like to see them commit to using their vast buying power to boost the most sustainable and highest animal welfare standards. When I first raised this point in Parliament as a new MP seven years or so ago, I was told all the time by Ministers: "You cannot do it. It will be too expensive. It is a luxury." I helped to set up a group called School Food Matters, originally in Richmond, to try it out in my own area. We persuaded Richmond Council and then Kingston Council to rewrite their contracts. Today, every single primary school in Richmond serves Food for Life gold standard food—the very best people can get. They prepare all their food in house and take-up by parents has trebled, and we are doing nearly as well in Kingston, where it started slightly later. Here is the thing: the cost per meal went down by 38p—it did not go up; it went down. In my view, that removes the only argument against pursuing this policy.

There is no reason not to use that simple but powerful lever to support the highest standards, but the Government can do more than that: they can raise the standards as well. There are two important ways in which the Government should do so. The first, simply, is to update the rules around cages. Millions of animals are currently trapped in appalling conditions on our farms. Pregnant sows are stuffed, unable to move, into farrowing crates, typically from a week before giving birth until the piglets are weaned. Those have been banned in Sweden and Norway, and we should do the same. Chickens are no luckier. We banned battery cages in 2012, but the so-called enriched cages that replaced them are more or less the same. They are hideously restrictive, and there is virtually no additional room at all. The life of a factory chicken just does not bear thinking about. Luxembourg and Germany have banned the cages, so why cannot we?

The second way in which we can easily raise standards is by tackling the overuse and abuse of antibiotics on farms. This is an animal welfare issue because antibiotics have been used in farming to keep animals alive in conditions where they would otherwise die, but it is also a major human health issue. The abuse of antibiotics has allowed the growth of resistant bacteria, which can spread to the human population and reduce medicines' effectiveness in treating our own infections. The brilliant chief medical officer Dame Sally Davies has warned:

> "If we don't take action, deaths will go up and up and modern medicine as we know it will be lost."

It is worth thinking about that pretty profound statement from the chief medical officer. She has talked about a "catastrophic threat": the risk of millions of people dying each year from common infections.

The good news is that, after a lot of campaigning, the issue has risen up the political agenda and the Government have taken action. Sales of antibiotics to treat animals in the UK fell by 27% from 2014 to 2016. That is clearly good news, but the threat remains acute and the Government need to get a stronger grip. There should be absolutely no mass medication of animals simply to prevent illness. It should be outlawed. There should be no use of antibiotics, such as Colistin, that are classified as critically important to human health. They should have no place on a farm. If we stop this madness, we stand a chance of preventing a human health disaster and, as it happens, we will also force a kinder, more civilised form of farming.

Finally, on agriculture, an issue that merits, and has indeed had, many debates all of its own is the badger cull. The Government have always said that their policy of culling badgers to stop the spread of bovine TB is

[Zac Goldsmith]

based on science, but that position is becoming harder to justify. The only full Government study into bovine TB transmission between cattle and badgers, which ran from 1998 to 2006, concluded that

"badger culling can make no meaningful contribution to cattle TB control in Britain."

More recently, the independent expert panel appointed by the Department for Environment, Food and Rural Affairs to advise on the current pilot cull stated that it was ineffective and inhumane. Nobody doubts the importance of dealing with TB or the devastating impact that it can have on livelihoods—

Neil Parish: I could not disagree with my hon. Friend more on this particular point. If there is a pool of the disease bovine TB within badgers, and someone tests their herds of cattle, ensures they are clean and then puts them out in fields where there are badgers carrying bovine TB, the badgers will then re-infect the cattle. We have to deal with both. I am sorry, but on this occasion I could not disagree with him more.

Zac Goldsmith: Well, we normally agree, and I thank my hon. Friend for his intervention. I do not believe that there is anything like enough evidence to justify culling tens of thousands of native wild animals, the vast majority of which are disease-free. This year is likely to see a trebling in the number of badgers culled, and yet in Wales, where no general culls are taking place, TB has halved. In the absence of robust science, the very least the Government should—

Simon Hart (Carmarthen West and South Pembrokeshire) (Con): Does my hon. Friend recognise that the decline in bovine TB in Wales is no more distinct in the areas where vaccination takes place than it is in areas where vaccination does not take place? Indeed, the Welsh Government are now considering whether they need to bring in a limited cull because the existing methods are not working. I hope he takes that into account.

Zac Goldsmith: I am going to move on, but the chief veterinary officer in Wales takes a different view.

Neil Parish: She is in favour of culling.

Zac Goldsmith: She wants selective, as opposed to general, preventive culls, and that is different to our approach here in England.

Neil Parish: Ours is selective.

Zac Goldsmith: Our approach is not selective. There are huge numbers of animals involved, The approach in England is a preventive cull, as opposed to a selective cull. My view is that at the very least the Government should suspend the cull and commission a proper study into the alternatives, so that we can be sure that the policy we adopt is based on science, and not assumption.

I shall hold off on taking interventions for a few moments, as in the time I have remaining I want to briefly look at how we treat exotic wild animals. In so many areas we are world leaders, but in others we lag behind. For example, at least 23 countries worldwide have banned the use of wild animals in circuses; but despite British Government promises going back five years, it is still legal to use lions, tigers, zebras and other wild animals in travelling circuses in the UK. It is time for Ministers to make good on a promise that has been made and repeated over the past five years.

The keeping of monkeys as pets is a similar issue. Primates are highly intelligent wild animals; they are not suitable pets. Like us, they enjoy complex social lives and form deep and lasting relationships, but despite that thousands upon thousands of squirrel monkeys, capuchins and marmosets languish alone in cages across the country. Because they become very tricky as they grow old, they are often simply abandoned and then have to be picked up by wonderful, but overstretched, organisations such as Monkey World in Dorset. The emotional and physical damage that they endure takes years and years to undo. Fifteen European countries have banned the trade, and more than 100,000 British people signed a petition demanding that we do the same. Again, we need to get a grip on this issue.

It is not just individual private ownership that needs looking at. There are 250 licensed zoos in the UK. Some, such as Howletts in Kent, really do represent the gold standard. The welfare of the animals is their principal concern, and the conservation of the species that they harbour is at the forefront of their campaign. They release animals back into the wild in a way that no other zoo in the country does. However, recent incidents, such as the exposé of the grotesque conditions at South Lakes Safari Zoo, show that there is a gulf between best and worst practice, and a need for better standards and a more rigorous inspection process. I believe that we need to establish a new, independent zoo inspectorate and give it the job of drawing up fresh standards for animal welfare in UK zoos and then enforcing them.

I want to join in the applause that the Government rightly earned last month when the Secretary of State announced that we would ban the trade in ivory here in the UK. Globally, the trade takes the lives of 20,000 elephants a year—one every 26 minutes—and they are hurtling towards extinction. We in this country—I do not think that many people are aware of this—are the largest exporter of legal ivory in the world, stimulating demand for ivory and giving the traffickers a means to launder new ivory as if it were old.

The Government's promise is not merely symbolic—it is much more than that—but I hope they will go further. Evidence is mounting of an increase in the trade in hippo ivory. There are only 100,000 or so hippos in the world, so the slightest shift in demand could be devastating for that species. I hope that the Government will expand their consultation, or the policy when it eventually emerges, to include other ivory-bearing species such as hippos, the walrus and the narwhal.

Finally on the international dimension, hon. Members will remember the outrage that followed the killing of Cecil the lion in 2015 and, too, the announcement a few weeks ago that the United States President was thinking of reversing the decision of his predecessor to ban the import of elephant and lion parts from trophy hunting. At the time it went largely unreported that this country also allows the import of wild animal trophies, including from species threatened with extinction. We need to change that. It should simply be illegal to import body parts of any animal listed as endangered by the convention on international trade in endangered species

The last point that I want to make moves into a different field. It relates not to farmed or exotic animals, or to our role overseas; it relates to puppies.

Dr Lisa Cameron (East Kilbride, Strathaven and Lesmahagow) (SNP): The hon. Gentleman is making an excellent speech. He is a great advocate for animal welfare. Will he join me in supporting Lucy's law, which was launched in Parliament last week and looks for a ban on third-party puppy sales? Basically, it would ensure that the scourge of puppy farming no longer exists in this country. Also, will he support the early-day motion on Lucy's law launched today?

Zac Goldsmith: I thank the hon. Lady very much for her intervention, and I could not agree with her more strongly. I pay tribute to Marc Abraham who led the campaign for Lucy's law. It is probably inappropriate to mention that I can see him in the Public Gallery, but he has been an absolute champion for the cause. I believe that we will see some results in the next few months and will perhaps hear from the Minister on that shortly.

I will cut my speech down, because I have taken far too many interventions and am running out of time. I have provided a long but not exhaustive list of measures that I think we should take. It is an important list, however, and taking those measures is the right thing to do and would put the Government on the right side of public opinion. If there is any doubt about that, we need only to look at the public reaction to the albeit false stories about MPs believing that animals do not have feelings, or at the reaction from voters to the 2017 Conservative manifesto proposal on holding a vote to abolish the Hunting Act 2004—something that I hope the Government will now rule out.

I want to give the Minister enough time to respond. I know she will be unable to respond to every point I have made, but I hope that she will do her best in the 10 minutes we have left.

11.20 am

The Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs (Dr Thérèse Coffey): It is a pleasure to serve under your chairmanship, Mr Robertson. I congratulate my hon. Friend the Member for Richmond Park (Zac Goldsmith) on securing the debate. He covered a wide range of issues in the first 20 minutes, and as a consequence I am afraid I will not be able to take any interventions.

I reiterate that the Government share my hon. Friend's and the public's high regard for the welfare of animals. We extend that regard to animals whether they are companion animals, farm animals or wild animals. I reaffirm the principles on which the Government's policies on animal welfare are based: our recognition that animals are sentient beings, contrary to the fake news spread recently by certain media outlets. That is certainly true of this Government and of predecessor Governments. In fact, back in 1822, this Parliament was the first ever legislature to implement laws to protect animals, with the Act to Prevent the Cruel and Improper Treatment of Cattle. The Government believe that the direct effect of the principle of sentience is recognised throughout the statute book, but for the avoidance of doubt, I am sure that hon. Members will join me in celebrating this morning's announcement by my right hon. Friend the Secretary of State of a new Bill that will not only increase the maximum penalties for animal cruelty, from six months' imprisonment to five years imprisonment, but enshrine animal sentience in law.

The draft Bill will embed the principle that animals are sentient beings, capable of feeling pain and pleasure, more clearly than ever before in domestic law. There was never any doubt or question that our policies on animal welfare are driven by the fact that animals are sentient beings. The Government are committed to raising animal welfare standards and to ensuring that animals will not lose any recognitions or protections when we leave the EU. The draft Bill makes our recognition of animal sentience clear. It contains an obligation, directed towards Government, to pay regard to the welfare needs of animals when formulating and implementing government policy. That provision does not apply to Ministers in the devolved Governments of Wales, Scotland and Northern Ireland, but we will work closely with the devolved Administrations on that important matter.

That will build on the long list of legislation that Parliament has passed to protect animals. The first significant general legislation was the Protection of Animals Act 1911, which introduced the offence of causing unnecessary suffering to an animal. That Act stood the test of time and was used every year by the RSPCA to successfully prosecute about 1,000 people a year for animal cruelty. It was eventually replaced by the Animal Welfare Act 2006, which introduced the added offence of failing to provide for the welfare needs of an animal. That offence had been present in on-farm legislation, but its inclusion in that Act meant that it applied to all kept animals.

I could read out a very long list of Acts of Parliament, but it would take too long; however, it is an indication of how much animal welfare means to Parliament and the public, and I will mention one or two in particular. The Performing Animals (Regulation) Act 1925 regulates circuses and other acts involving animals; it is still in force, although the Government are in the process of replacing it. The Cockfighting Act 1952, as the name suggests, made it an offence to organise a cockfight. The Wildlife and Countryside Act 1981 stepped up provision for wildlife, including banning methods of killing certain animals—for example, wild birds—to avoid bodily injury in a particular way. The Zoo Licensing Act 1981 imposed strict welfare and conservation standards on our zoos.

We have also introduced regulations through EU law, and we will bring into UK law any that are not already in place through powers granted by the European Union (Withdrawal) Bill. Those include the Welfare of Farmed Animals (England) Regulations 2007, which implemented EU legislation on minimum standards of welfare for different species of farmed animals, and the Welfare of Animals (Transport) (England) Order 2006, which implemented EU legislation on the welfare standards for animals in transit. As I indicated, the Government intend to go further on improving the welfare of all animals, be they wild, companion or farmed.

The UK has been at the forefront of driving global efforts to safeguard the world's most vulnerable species and we remain absolutely committed to protecting global wildlife for generations to come. As my hon. Friend the Member for Richmond Park pointed out, that is why

[Dr Thérèse Coffey]

we are taking action to preserve elephants and are now consulting on our proposed ban of the sale of ivory in the UK that contributes directly or indirectly to the poaching of elephants. The proposals, on which we are consulting, are designed to put the UK front and centre of global efforts to end the insidious trade in elephant ivory.

Historically, the United Kingdom has been ahead of international trends on trap humaneness, outlawing leg-hold traps and establishing an approval system for spring traps in the 1950s. We propose to consult next month on UK-wide implementation of the agreement on international humane trapping standards. That agreement between the EU, Canada and the Russian Federation puts in place humaneness standards to improve the welfare of wild animals commonly caught in traps for their pelts. Under the agreement, we are required to prohibit traps and trapping methods that do not meet the standards for a list of species, five of which are currently present in the wild in the UK: stoat, badger, pine marten, otter and the European beaver. I know that my hon. Friend takes a great interest in them. When the UK legislation comes into force, only traps and trapping methods that meet the standards for species covered by the agreement will be permitted under licence.

Alex Chalk (Cheltenham) (Con): Will the Minister give way?

Dr Coffey: I am afraid I cannot at the moment, but if I have time at the end, I will.

We will tighten the rules regarding dog breeding, pet shops, animal boarding, performing animals and riding stables. Irresponsible dog breeders and dealers are a stain on our national conscience and such people who exploit that trade must be stopped. We will introduce new regulations on the welfare of dogs in dog breeding establishments. We will ensure that more breeders need to be licensed. Statutory minimum welfare standards will be applied to licensed breeders and will be enforced by local authority inspectors. Detailed guidance will be provided to inspectors to assist them with the new regulations.

All pet vendors will also have to provide information to new owners to educate them about their new pet. It will be made clear that any business selling pet animals online will also need to be licensed. We continue to work closely with the Pet Advertising Advisory Group on minimum standards for such sellers. We are enormously grateful for the input from local authorities and other organisations on drafting the new regulations. I hope that they will be in place by the end of next year.

As my hon. Friend the Member for Richmond Park highlighted regarding farm animals, to improve welfare of animals at slaughter and to deliver our manifesto commitment, we recently carried out a public consultation on our proposals to require CCTV in every slaughterhouse in England. The consultation closed in September. There was strong support: of the nearly 4,000 responses, more than 99% were in favour, which is an overwhelming endorsement of the policy. We published the Government's response to the consultation last month and will follow that up by laying secondary legislation before Parliament early in 2018.

In particular, my hon. Friend raised the issue of the live export of animals, which is of significant concern to hon. Members. Compared with 20 years ago, there has been a dramatic fall in the trade in live animals going directly for slaughter. Nearly 2 million animals were exported every year, but in 2016, 50,000 sheep were exported, with 5,000 going directly for slaughter from Great Britain. Sheep are the main livestock species to be exported for those purposes, and I know the issue still causes considerable concern.

My hon. Friend will be aware of the restrictions we have now within the EU, but we have always been clear that the Government would prefer to see animals slaughtered as near as possible to their point of production. We believe that a trade in meat is preferable to a trade based on the transport of live animals, particularly when journeys may result in livestock travelling long distances across Europe. As we move towards a new relationship with the EU and the rest of the world, we have a unique opportunity to shape future animal welfare policy to ensure the highest standards in every area. Our manifesto commitment made it clear that we would take early steps to control the export of live farm animals for slaughter once we leave the EU. We are currently considering options, but the issue is rather complex and any future proposals would have to consider trade between the UK and Ireland, whether that is with Northern Ireland or across the Republic of Ireland.

On farm codes, as well as laying new statutory welfare codes for cats, dogs and horses before Parliament shortly, we are also raising standards on farms by modernising the farm animal codes, a move that has been welcomed by industry. A new code for meat chickens will be laid before Parliament shortly and we will consult on new codes for laying hens and pigs in the new year. The updated codes of practice for England will provide clear guidance to producers on how to comply. We continue to work closely with DEFRA's delivery bodies, including the Animal and Plant Health Agency, on the enforcement of animal welfare standards.

My hon. Friend raised a wide variety of issues. The Government and the farm sectors, such as the meat chicken industry, have taken significant strides on reducing the amount of antibiotics used, although I recognise that that may still not be enough for him. He also mentioned trophy hunting, and I think he would find it worthwhile to read Professor Macdonald's report, which DEFRA commissioned, about the balance of conservation and hunting for commercial purposes in that way. The restriction that he referred to, which President Trump was considering removing, has put a pause to that—it was specifically from Zimbabwe. I believe that the US does allow other elements still to be imported, but that is done on a conservation basis.

The measures that I have set out clearly demonstrate the Government's intention to avoid animal suffering and show we are taking steps to strengthen standards. In future, when we are outside the EU, we intend to take full account of the scope for the UK to set the very highest standards in animal welfare and to encourage action on a global level.

I have 30 seconds left, so I will take a brief intervention from my hon. Friend the Member for Cheltenham (Alex Chalk).

Alex Chalk: In considering the welfare of wild animals, does the Minister welcome the plans approved by the Government to release beavers into the Forest of Dean for the first time in 400 years? Does she agree that that should be the beginning of a longer process of reintroducing, when practical, species that were previously wiped out by human activity?

Dr Coffey: Beavers have not really been present for 400 years on this island, although my hon. Friend will be aware of the releases that have happened in Scotland. I am aware of the River Otter trial, and further trials are to come. It matters that our approach is based on science and rigour, which is what this Government will ensure.

Question put and agreed to.

11.30 am

Sitting suspended.

Lotteries: Limits on Prize Values

[Sir Edward Leigh *in the Chair*]

2.30 pm

Sir Henry Bellingham (North West Norfolk) (Con): I beg to move,

That this House has considered the future of society lotteries, the Health Lottery and limits on prize values.

It is a great pleasure to serve under your chairmanship, Sir Edward, in this important debate. You will remember that the launch of a national lottery back in the days of the Major Government was one of that Government's great successes. When history is written, I think that it will be seen as a far-reaching and incredibly innovative measure. More than £38 billion has been raised for good causes around the country, and all colleagues will have examples of outstanding projects that have helped transform communities in their constituencies.

I have a great deal of respect for Camelot. I do not want to dwell too much on the national lottery or Camelot during this debate, because I want to talk specifically about society lotteries. Unfortunately, in recent years, Camelot has lost its way somewhat. Many of my constituents were incensed by the decision to double the price of tickets and add 10 extra numbers to the card. The impact on small family syndicates was significant, and I know a lot of constituents who pulled out of supporting the national lottery as a consequence. I want to concentrate on society lotteries, and to flag up the extraordinary revolution that has taken place over the past decade. It has been a remarkable story for the third sector.

Sir Michael Fallon (Sevenoaks) (Con): I hesitate to interrupt my hon. Friend so early in his speech, but before he leaves the issue of the national lottery, whether one admires Camelot or not, is not the real difficulty Camelot's length of tenure as an operator? It becomes more and more difficult to know whether it is performing as well as possible. The metrics simply are not there because of the monopoly that it has enjoyed.

Sir Henry Bellingham: That is a good point. Camelot has become complacent. It has a new chief executive now, as we know, but my right hon. Friend is absolutely correct. Conservatives remember well when it was launched, because we were in government at the time. There was a tremendous spirit of innovation and a great deal of aspiration, but Camelot has been there for a long time now, and has made some bad mistakes. One, incidentally, was taking the Health lottery to judicial review in an attempt to prevent it from being launched. If ever there were antics by a monopolistic organisation, that was it.

I want to focus on society lotteries. There are now more than 490 organisations running society lotteries. In 2011, they raised roughly £100 million for good causes. The figure is now more than £250 million. Society lotteries are different from the national lottery, as we know. They are regulated under the Gambling Act 2005, unlike the national lottery, which is regulated under the National Lottery Act 1993; they have an annual turnover limit, a draw limit and a prize cap; and

[Sir Henry Bellingham]

they cannot operate in Northern Ireland or the Isle of Man. In contrast to the national lottery, they are highly regulated and controlled.

Justin Tomlinson (North Swindon) (Con): My hon. Friend is giving a characteristically powerful and well thought-out speech on this important subject. It is clear that we have allowed the national lottery to establish its market position, but as he highlighted, a huge number of different companies and societies offer products. It is an opportunity for the market to choose between different prizes, stakes and innovative games, and for customers to choose from a variety of good causes. We should welcome any effort to support the new organisations.

Sir Henry Bellingham: My hon. Friend makes a good point, which I will come to in a moment. One key aspect of the argument is that society lotteries complement the national lottery and do not compete directly with it. There is room for them both to operate.

The big difference, obviously, is the prize cap. As I pointed out, society lotteries are limited to 10% of the value of any one draw, with a theoretical maximum of £400,000. In practice, most of the top prizes are about £25,000. That is, frankly, scratchcard territory. I will return to that later in my short speech.

The impact on our constituents of society lotteries is significant. Most high street charities now run such lotteries: cancer research; military charities; disability support charities such as the Royal National Institute of Blind People; and environmental protection and animal welfare charities. Many contract an external lottery provider to service their lotteries. The two best known external providers are the Health lottery and the People's Postcode lottery, which most colleagues will have heard of.

I have been doing some research in my constituency. Society lotteries' contribution to good causes has been impressive. For example, a few years ago, the Benjamin Foundation, which runs a hub in Norfolk to help homeless 16 and 17-year-olds to get their lives back on track through short-term supported housing, received £10,000 from the Postcode lottery, having applied to the lottery and not succeeded for a variety of reasons. The strength of society lotteries is that they can be much more flexible and fleet of foot in considering need.

Elsewhere in Norfolk, the People's Health Trust, supported by the Health lottery, has given numerous small grants. The East Anglian Air Ambulance lottery has done a great deal of fundraising. The organisation HealthSuccess in Norfolk has put money into a number of good causes around Norfolk: for example, supporting local branches of Scope, Dementia UK and the Royal Voluntary Service. It has put nearly £40,000 into creative training sessions with the Wayland Partnership Development Trust, and nearly £50,000 into the Great Yarmouth and Gorleston Young Carers project. Those are examples of particular successes in Norfolk, which I welcome 100%.

The Health lottery has supported two key charities in my constituency, Trading Links and the Hanseatic Union. Across Norfolk as a whole, it has granted more than £1.6 million to 45 local projects since 2011, as part of nearly £100 million in grants supporting 2,600 projects and nearly 450,000 people across the entire country. I pay special tribute to the founders of the Health lottery, particularly Richard Desmond, one of our mostly highly regarded and respected philanthropists. They can be proud of what they have done.

There are arguments for reform, and they are becoming ever stronger—I mention above all the point about the prize limit, to which I will come in a moment. The proliferation of society lotteries is a good example of the big society at work, helping out at grassroots level. It is a movement that has grown organically and gathered momentum.

The key point, as my right hon. Friend the Member for Sevenoaks (Sir Michael Fallon) and my hon. Friend the Member for North Swindon (Justin Tomlinson) mentioned a moment ago, is that society lotteries are not in competition with the national lottery; what they do complements it. I believe strongly that people play the national lottery because they want to win a life-changing prize. They console themselves with the thought that although the odds against them are completely ridiculous, there is nevertheless a remote chance that they might win the prize, and they will also do some good work for charity. However, they have no idea which charities their small share of ticket income will support. That is quite unlike society lotteries, which are often locally based on people's doorsteps. People can relate to them and understand what is done by the local charity that they are supporting and what impact it will have in the community in question.

I feel strongly that there is room for both. As the Secretary of State for Digital, Culture, Media and Sport, my right hon. Friend the Member for Staffordshire Moorlands (Karen Bradley) said in a recent reply to a question:

> "As Government, we of course want to ensure that we have one strong national lottery, but that does not mean that we cannot also have strong society lotteries."—[*Official Report*, 16 November 2017; Vol. 631, c. 565.]

I agree 100%.

We also need to bear in mind that, from the way Camelot has been carrying on, one would think that society lotteries were right there biting at its heels, with ticket sales in the billions. The truth of the matter is that total ticket sales by society lotteries last year were £586.66 million, compared with national lottery ticket sales of £6.92 billion—it is under 10% of the national lottery's total sales. Frankly, the society lotteries deserve to have the chance to move up a gear, to increase their ticket sales and to do even more good for those causes in our constituencies.

Very simply, I am asking for some deregulation. I would like the draw limit to be raised from £4 million to at least £10 million; the annual turnover limit to increase from £10 million to £100 million; and the prize limit to be raised to £1 million—the Lotteries Council takes the view that it should be 50% of any one draw, but that could be too complicated. The key thing is that if the turnover limit is raised to £100 million, the administration costs would come down quite significantly. That is not the kind of prize that would change people's lives in the way that the national lottery prizes can, but there is no question that it would be much more attractive. I would also like arrangements to be made for new society lotteries, which have significant start-up costs in their

early years. There must be an argument for the aggregation of the 20% minimum charity contribution over a number of years.

As those of us who were in Parliament at the time remember well, when the national lottery was launched, there was an argument for it being a monopoly. Since, we have seen this revolution in society lotteries. The scenario has changed dramatically. When conditions change, the overarching regulation has to change as well. There is overwhelming support for these changes from every single third-sector charity that has been in contact with me. I quoted the Lotteries Council, which is very supportive, as was the Digital, Culture, Media and Sport Committee's last report.

Since I requested this debate from Mr Speaker and had it granted, I have had a significant number of emails from non-governmental and other such organisations. To pluck one out from a charity that I know well, ActionAid's senior advocacy manager told me that he is incredibly supportive of the proposals that we are putting forward because:

"Such changes would mean more funds can be raised for important causes like ours and the many other UK charities benefiting from this funding source."

He says that

"it would be useful…to mention ActionAid's support for these proposals".

If they go ahead, he says, ActionAid will be able

"to help tackle violence against women and girls in Kenya, Ghana, Ethiopia, and Rwanda"

as part of its outreach in Africa. That is quite powerful.

I understand that the Minister is waiting for advice from the Gambling Commission. Is there any news on that? As I understand it, these changes could be brought about by a simple statutory instrument. Perhaps she could comment on that, because that is within her power and a lot of pressure is building up.

Arguments have been put forward against these changes. I will not go into huge detail because that would take all afternoon and I do not want to get bogged down in arguments that are not particularly strong. The key argument that has been made is that a further proliferation of society lotteries would somehow take money out of the pool that is available for buying these tickets and that eventually goes to help good causes. I do not accept that argument at all, because the public are incredibly generous these days. If the ask is right, the public will continue. One very good example of that is national lottery sales, which did not dip in the slightest after the all-time record Red Nose Day.

When the Health lottery was launched in 2011, Camelot kept saying that there would be a huge diminution in the amount of support for the national lottery and in ticket sales, but it widened public support and the public view of lotteries, so the competition benefited everyone, including the national lottery. The public spent more on the society lotteries—through the Health lottery in this case—and on the national lottery.

I have also looked at independent reports. Most notably, in 2012, NERA Economic Consulting published an in-depth report on the impact of society lotteries on ticket sales and on the national lottery that found that they made absolutely no difference whatsoever. The Centre for Economics and Business Research published a report in 2014 which was quite interesting and pertinent in saying that

"there is little evidence to support the notion that society lotteries undermine the National Lottery…If regulations were to be relaxed, the potential increase in society lottery-donated funds to good causes would, in all likelihood, complement rather than detract from those provided by the National Lottery".

That is very telling.

On the fall in national lottery income last year—it was not very significant, but it was a fall—the *Financial Times* reported Camelot as saying that

"the main reason for the fall in sales last year was the disappointing performance of The National Lottery's core draw-based games—especially Lotto, with player confidence in the game still fragile following the recent game changes".

Camelot is being incredibly candid and honest.

In conclusion, the Minister and the Secretary of State have both said that they believe in the big society, deregulation and a flowering of these different smaller organisations. They believe in communities taking control of their own destiny, and in charities in all our constituencies up and down the country working together to help those good causes. We are now at a stage in the development of lotteries in this country where we can take this important decision. The timing is absolutely spot on. There are many other competing issues in the Minister's Department and she has many things on her plate, but I urge that this problem could be solved by a simple statutory instrument, which would have massive support from the public and from the organisations I have mentioned. I submit that now is the time to act and for the Minister, who is incredibly talented, to enhance her reputation still further by taking this action.

2.47 pm

Ben Lake (Ceredigion) (PC): It is a pleasure to serve under your chairmanship, Sir Edward. I thank the hon. Member for North West Norfolk (Sir Henry Bellingham) for securing this important debate. I intend to keep my contribution quite brief, which I am sure hon. Members will be glad to hear, but I will emphasise the important work that funding from society lotteries has been able to support, and reiterate the point that raising the turnover and prize draw limits could enable them to do even more.

Players of society lotteries raise over £250 million a year for thousands of charities and good causes across the United Kingdom. The Gambling Commission's latest round of statistics highlighted that the money that society lotteries gave to good causes rose to 43.6% from 43% last year. In the constituency I serve, Ceredigion, the People's Postcode lottery, one of the biggest charity lotteries, has supported several diverse local projects and charities that have been of great benefit to communities across the county. Last year, £9,750 of funding from People's Postcode lottery players supported Age Cymru Ceredigion's "Silver Steps" project—a great initiative that supports the building of safe walking trails to promote activity among older people. At the other end of the spectrum, a further £1,429 grant from the People's Postcode lottery funded improvements to Rhydlewis village hall. Many of those smaller projects do not, or often cannot, access the grants available via the national lottery, and therein lies the real value of society lotteries: they are uniquely positioned to offer funding opportunities

[Ben Lake]

to those smaller projects. They can support the causes that the national lottery is unable to help. The hon. Gentleman stated, far more eloquently than I can, a point that is worth reiterating: there need not be any competition between the national lottery and society lotteries—in fact, they complement each other's good work.

How society lotteries should be regulated is a question that has been exercising Parliament, the Gambling Commission, Government and others for nearly five years, which I am sure hon. Members from all parties agree is far too long. The charities supported by society lotteries would like the issue to be resolved as swiftly as possible. On behalf of Plaid Cymru, I urge the United Kingdom Government to take the necessary action to enable society lotteries to raise more money for good causes as soon as possible.

The Minister may well be aware of my party's support for the Lotteries Council's proposals, which the hon. Gentleman also mentioned: to increase the annual turnover limit from £10 million to £100 million and the draw limit from £4 million to £10 million. The existing turnover and draw limits are resulting in increased administration costs. Effectively, they are capping the funds that can go to the good causes that each charity lottery supports; indeed, for some charity lotteries, the limits are having the unintended effect of reducing the amount that they can provide to good causes to begin with.

In the light of the numerous studies and reports that have considered the issue, not least the Culture, Media and Sport Committee's 2014-15 inquiry, I am confident that changes to the limits would preserve the distinctiveness of the national lottery. I conclude by asking the Minister whether she recognises the crucial role that society lotteries play, and when we can expect a response to the call for evidence on lotteries that was launched by the Department for Culture, Media and Sport in December 2014. Diolch, Sir Edward.

2.51 pm

Priti Patel (Witham) (Con): It is a delight to be called to speak in this important debate. I congratulate my hon. Friend the Member for North West Norfolk (Sir Henry Bellingham) on securing it. He spoke in great detail and with great knowledge about the benefits of society lotteries. I commend him for the strength of his case and his arguments; I agree with them all.

In my seven and a half years as a Member of Parliament, I have been really moved and pleased to see the amazing actions and the positive impact of charities, particularly small charities, not only in my constituency but in other parts of the country and across the world. The commitment and dedication of charity workers, particularly volunteers, transforms lives and communities. I echo my hon. Friend's words about the big society—that is exactly what we see in the dedication of motivated individuals who want to serve their community and help others. That is what we see from small charities and society lotteries: valuable support and service provision, responding to local needs in a way that central Government, big charities and bureaucracies quite frankly cannot and will not.

In my own constituency, I have seen many great charities supporting amazing causes, from branches of the Royal British Legion across Essex to remarkable charities such as Brainwave, which fundraises for itself, with no Government funding or support, but is changing the lives of children who suffer brain injuries and cerebral palsy and is also transforming the lives of their parents and families. From Farleigh hospice to the Witham Boys Brigade, people are working hard every week to support vulnerable people and enhance our local communities. The Health lottery, which my hon. Friend mentioned, has invested more than £45,000 in just one charity in my constituency, 2nd Witham Boys Brigade. The Health lottery is an astonishing vehicle for bringing direct support to the grassroots—the communities and charities that achieve a transformative effect. In the case of the Witham Boys Brigade, the money has gone to its stadium, a street project and a neighbourhood living project that is transforming the community and bringing employability skills and empowerment to a whole generation of young people. Enhancing outcomes for young people is something that we should all support, while also encouraging greater volunteerism within the community. Funding from the Health lottery not only enables young people to take part in activities, but helps to build skills for life and give them the confidence to become good citizens.

One of the benefits of local society lotteries is that the people who pay to play will see and know the good causes that they are supporting, because they will be surrounded by them in their local community. That is an enormous contrast with the national lottery, in which there is no direct link between someone's stake and the various causes that it may go towards or support in some way. The national lottery's funds go into a central pot and are redistributed from the centre—not a principle of redistribution that I support—whereas local society lotteries serve a genuine grassroots need. Their promoters are themselves active citizens within their communities, so they have that community connection.

I want to see more charities and good causes benefiting from funding from society lotteries. Having looked at this matter, I urge the Government, as other hon. Members have done, to support that goal by reforming the regulatory regime under which society lotteries work. In fact, one of the representations I received before the debate was from Essex and Herts Air Ambulance. Our air ambulances are amazing. Naturally, they believe in raising the cap on society lotteries to ensure that more money goes into communities—something that we all support.

In my former role in the Government, I saw for myself how society lotteries benefit international causes and charities—a point that my hon. Friend also mentioned. Causes such as Water Aid and Mary's Meals, a charity that my former Department supported in Scotland, are given a tremendous helping hand in delivering support on nutrition. The People's Postcode lottery and the Postcode Global Trust support many global charities that are helping young people around the world to develop new life skills and giving them new life chances. We should be very proud of that; I hope the Government will acknowledge it and be proud of it too.

It has been five years since a review of society lotteries was announced, but progress on regulatory reform has been slow. Local charities and organisations that support people are being held back by outdated legislation. By law, non-commercial fundraising lotteries must donate at least 20% of proceeds to charity. Outdated regulations

designed to protect the national lottery from competition are preventing them from growing. That is simply not right.

The case has already been made for raising the maximum prize to £1 million—a proposition that is rightly supported by the sector. A higher prize fund will attract more players, which in turn—believe it or not—will generate more revenues for good causes. A £1 million prize is also a clear and memorable figure that is easy to market when promoting these very good society lotteries and charities with a strong local connection. I believe that society lotteries that are able to do so responsibly should be free to adapt their model, increase their maximum prize to attract more players and bring that money to our communities.

The real question for the Government is why society lotteries should be held back. We should give them the freedom to succeed and the trust and confidence to go out there and deliver the big society. We should empower more communities and charities. As a Conservative, I am naturally a great supporter of the freedom to succeed, choice, innovation and the role of the market. When playing lotteries, consumers should have a choice of causes to support, including causes that they themselves may be associated with or have an affinity with. That is really important, but it is being restricted by the existing regulatory framework. We should trust consumers to make informed choices about which lottery products they want to support. They should know how, and towards which causes, each £1 that they pay and play will be divided up, and what the ultimate benefit will be.

As we have heard already today, the national lottery has changed its product range, although that has not necessarily worked, and has put its prices up. We all want to support the next generation of Olympians and win more medals as a country, but some consumers quite frankly do not want to bankroll the fat-cat salaries of Camelot. Likewise, many people who give to charities do not want to bankroll large charities' fat-cat salaries. As someone who has been a great advocate and supporter of local charities, and of moving moneys away from big charities and big causes, I think we should make absolutely sure that we empower smaller charities, so that they get out there and provide the support that is required.

The other point I will make—I say this with some personal experience, as my parents were shopkeepers—is that the national lottery's monopoly completely restricts the opportunity for smaller lotteries to have a staging post in many retail outlets. The national lottery is very restrictive in terms of the regulations and the restrictions around it, and it places burdens on small shopkeepers, such as my parents once were, even though they run the types of shops that we should be supporting on high streets and in our villages, as well. They provide a great local service to our local communities, too.

Camelot has a monopoly and as there is only one national lottery that restriction obviously has ramifications and wider implications. The Government are supporting choice and competition in many other sectors—energy, banking, education or higher education—so there is an enormous opportunity for the Government now to grasp the nettle and to be incredibly proactive in this area.

This is an argument to support choice and competition, but fundamentally it is an argument to support our local communities and our local charities. Naturally, there will be benefits from increased competition, which is something I support. So, like my colleagues here today and like my hon. Friend the Member for North West Norfolk, who secured this valuable debate, I feel that this is a wonderful opportunity to live and demonstrate the values of choice and competition, as well as to promote the role of our small charities, to show that the big society can exist and operate through the hard work of smaller charities and their lotteries, and through other society lotteries.

3.1 pm

Jim Shannon (Strangford) (DUP): Sir Edward, it is always a pleasure to speak in Westminster Hall and I thank the hon. Member for North West Norfolk (Sir Henry Bellingham) for bringing this issue here for consideration.

A firm train of thought seems to be emerging today—that good cause lotteries can do a lot of good work. None the less, the topic is a very emotive one and at the outset I will say that I firmly believe that gambling can and does destroy lives throughout the United Kingdom. At the same time, I am also a firm believer that although adults have the right to make their own choices, regulation must be in place, so I am very keen on that. It is important that regulation protects individuals and families as much as possible, while at the same time allowing people the freedom to do what they want to do. That is why I support the case that the hon. Gentleman made. It is important that we consider what good cause lotteries can do across the United Kingdom of Great Britain and Northern Ireland.

At the same time, I advocate the lowering of stakes for the fixed-odds betting terminals and will continue to push for that. However, that is not a debate for today. I understand that, but it is an issue that many of us feel very strongly about, and while not many Labour Members are here today, there are those who subscribe to the same point of view that I do—and many in the Conservative party have the same opinion.

I support the central theme and thrust of the hon. Gentleman's argument—more money for good causes. How can we make that happen? Many of us across the United Kingdom, including in my constituency of Strangford, are well aware of the national lottery, for instance, and the good work that it does, as well as the many organisations that it has benefited. Community groups and their projects have benefited from the national lottery, as have churches. There are many churches in my constituency that have benefited from the national lottery and some of those schemes were massive schemes, which, without that level of investment, would never have taken place.

Stephen Lloyd (Eastbourne) (LD): Does the hon. Gentleman agree that because of the challenging financial envelope that a lot of hospices have had to deal with over the last few years, lotteries have played an ever more important role in those hospices being on top of their cash flow? Under the proposed changes—moving beyond the limit of £10 million—lotteries could become ever more important to those hospices, to ensure that they can serve more and more terminally ill people in the community.

Jim Shannon: I thank the hon. Gentleman for his intervention and that would be the thrust of my argument, as well; indeed, it is possible that many of us in this Chamber share his opinion. But how can we support such causes throughout the whole of the United Kingdom of Great Britain and Northern Ireland?

In my opinion, today the debate should focus on how we can better regulate these society lotteries to ensure that as much as possible of the profit that they make goes to charities and is not swallowed up in administration. The right hon. Member for Witham (Priti Patel) referred to the administrative aspect of charities, and we have to be very cognisant of that issue; we cannot ignore it.

I remember seeing an investigative report on TV about how some charities were run so that only 5% of the money they raised actually went to the cause, and the rest was lost. We are aware of difficulties in the past, and it is important that we ensure that that does not happen again. I remember being horrified by that report and from then on I checked with charities to ensure that the bulk of the money that I donated would go to the actual charity. I am sure there are many parts of the United Kingdom where charitable giving is excellent—I do not doubt that and I will not say anything different—but I know that in Northern Ireland we have some of the highest levels of charitable giving in the whole of the United Kingdom of Great Britain and Northern Ireland; my hon. Friend the Member for Belfast East (Gavin Robinson) can confirm that. We are that sort of people, we are that sort of a nation and we are that sort of a region, and I want to ensure that the bulk of the money that is donated goes to the actual charities.

Nobody expects volunteers in a charity shop to go without heating to keep costs down, but there is something to be said for ensuring good stewardship of money that people have donated. It is up to us to provide legislative protection to ensure that that is the case. There is also a need for charities' staff to be paid, and they should always be paid a decent wage; that is not what we are trying to change when we talk about cutting administrative costs.

Colin Clark (Gordon) (Con): I am equally concerned about charities' costs; administrative and advertising costs can be as high as 49% in some of these society lotteries. Obviously Camelot, because of scale, has much lower costs. However, does the hon. Gentleman agree that by increasing turnover, smaller charities would probably decrease their administrative cost per pound, which would increase the percentage of the money that goes to deserving causes?

Jim Shannon: There is certainly an argument for that, and I think we are all committed to ensuring that the vast majority of the money that people give goes to the good causes that we wish to see receiving the money. If we can achieve that, I believe we will be on our way.

Gavin Robinson (Belfast East) (DUP): My hon. Friend knows that the legislative framework in Northern Ireland for societal lotteries is different to that for the rest of Great Britain. We have prescribed limits to expenses: 20% where the revenue is over £10,000; and 15% where the revenue is lower than £10,000. Perhaps those prescriptive percentages of 20% and 15% respectively should be considered for the rest of the United Kingdom.

Jim Shannon: My hon. Friend makes a very important point in this debate today and the Minister will obviously take note of it—

The Parliamentary Under-Secretary of State for Digital, Culture, Media and Sport (Tracey Crouch) *indicated assent.*

Jim Shannon: So we look to the Minister, as we always do, for a comprehensive response to the debate. It is always good to see her in her place and we deeply appreciate her interest in this matter.

Businesses should not reap the benefit of charitable rates and tax exemptions if the charitable project itself is not reaping the benefit of people's charitable endeavours. For that reason, I am supportive of greater regulation to ensure that the most money possible goes to the charity. For example, when people make the decision to buy a Health lottery ticket over a national lottery ticket, it suggests that they want to help the health service, as the hon. Member for Eastbourne suggested in his intervention, and people who are ill. As much money as possible should go to health provision, as that is what people are trying to achieve.

I am not sure whether this issue is really within the remit of the Minister, but I must put something on the record. Whenever we watch TV—I only watch on very rare occasions—the Health lottery comes up. In the small print at the bottom of the screen, it says that the Health lottery is available in England, Wales and Scotland, but not in Northern Ireland. That might be because of our legislation, but I will put it on the record that many of my constituents wish to contribute to the Health lottery but cannot do so for whatever the reasons may be. So, I again look to the Minister, to give us some thoughts on how we can perhaps ensure that the good charitable giving of people in Northern Ireland can benefit the Health lottery, so that we can also contribute to good causes through that route.

Gavin Robinson: Perhaps this will be helpful for the Minister as well. Legislation prescribes that somebody from Northern Ireland cannot purchase in person a ticket in the society lotteries in GB, and similarly somebody in GB cannot purchase in person. There is no prescription in law that stops somebody from Northern Ireland participating by post, by telephone or online.

Jim Shannon: There we are. We just have to spend extra money. I thank my hon. Friend for his helpful comment. Many would wish to contribute to the Health lottery and similar charitable causes through the lottery societies if they were given the opportunity. I put on the record that we are keen to be a part of that process. Perhaps we could do it in the same way as everybody else, using the methods that they use across the whole of the United Kingdom of Great Britain and Northern Ireland.

I read an article recently that thankfully said that society lotteries generated more money for good causes in the year to March 2017 than ever before. That is good news, and if possible we would like to see that figure increase again as the process becomes more streamlined and more can go to the cause itself, as the hon. Member for North West Norfolk said in his introduction. Figures published by the Gambling Commission revealed that

Britain's 491 society lotteries raised £255 million, up from £212 million in 2016 and £190.6 million in 2015. It has been said that one of the reasons for the increase was that the percentage of sales income going to good causes had risen from 43% to 43.6%. The increase is exactly what the committee was looking for, and even more if possible.

The article went on to say that the funds generated by the Health lottery—again, we come back to that one—which consists of 51 local lotteries across Britain operating under one brand, have significantly increased the amounts raised by society lotteries since it was launched in September 2011. That is a supreme example of those who want to give charitably through a lottery and who do so for the benefit of all of the people—all bar one region—of the United Kingdom of Great Britain and Northern Ireland. We look to the Minister to give us some idea of how we can be a part of that process.

There is an argument that says the limits are increasingly out of date and should be raised to allow more money to be raised. The argument must be carefully considered, and I am sure the Government are doing so. That was the thrust of the contribution from the hon. Member for North West Norfolk, and I think it is the wish of the rest of us to see how we can do better. I urge the Minister to ensure that enough time is taken to safeguard individuals and families when considering any alteration of regulations with regard to any type of gambling, no matter how good the cause is.

3.12 pm

Amanda Milling (Cannock Chase) (Con): It is a real pleasure to serve under your chairmanship this afternoon, Sir Edward. I congratulate my hon. Friend the Member for North West Norfolk (Sir Henry Bellingham) on securing this debate. I am particularly pleased because I have raised several questions in the House on this topic and have spent weeks applying for a debate myself. Between us we have managed to get there in the end. I am delighted to have the opportunity to talk about the reforms that have been discussed by hon. Friends and hon. Members this afternoon, and the opportunities that we could create for local charities and good causes.

To touch on some of the points that other Members have made, why is reform needed? What is the purpose of society lotteries? Put simply, society lotteries are one of several ways in which charities can raise all-important funds for good causes. As Members we go to many different events and support charities in many different ways. Society lotteries engage support in a slightly different way from other forms of fundraising. In fact, they are a way of recruiting supporters. They can find themselves getting new donors and also volunteers. Some charities that have society lotteries say that people buy lottery tickets and go on to take out direct debits and leave legacies. Society lotteries have become an increasingly successful way for charities and good causes to raise all-important funds at a time when we know that demands on their services are on the increase.

The numbers speak for themselves, as my hon. Friend the Member for North West Norfolk mentioned in his speech. In 2011, society lotteries raised around £100 million for good causes. They now raise more than £250 million. They have become a vital way in which well-known national charities can raise funds. My right hon. Friend the Member for Witham (Priti Patel) mentioned the British Legion, which runs the poppy lottery. There are also the more regional and local charities such as St Giles Hospice and the Midlands Air Ambulance in my area.

External lottery managers provide services to operate lotteries. The best known are the Health lottery and the People's Postcode lottery. We can see the ways in which they help. The People's Postcode lottery operates to help raise funds for local, national and international good causes, supporting 70 larger charities and 3,000 smaller charities and local community organisations. The Health lottery has raised around £100 million, helping 400,000 people and supporting 2,500 charities, including providing just over £25,000 to Media Climate CIC in my constituency to support a project called Get Active with Music, a two-year project that is looking to deliver a weekly media creation and learning project for a group of 30 adults with learning difficulties.

As both my hon. Friend the Member for North West Norfolk and my right hon. Friend the Member for Witham mentioned, such action is a good example of the big society. Before the general election in 2010, long before I entered this House, I conducted some market research to look at the concept of localism and the big society to try to understand how people understood it. The project is a really good example of exactly what the big society is and what it looks like on the ground in our individual constituencies.

In short, society lotteries provide invaluable funding for charities and good causes, particularly for small and local charities and good causes. Charitable need outstrips supply. Data from the People's Postcode lottery shows an increasing gap between the funding applications received and the funds available to the three grant-giving society lotteries managed by them.

For some time there have been calls for changes and reform in the law. Society lotteries have been incredibly successful, but there is scope for them to do even more. My hon. Friend the Member for North West Norfolk outlined the limits on society lotteries, so I will not go into those in detail again. Needless to say, there is scope and a need to increase the limits and caps in order for society lotteries to fulfil their full potential. The reforms being sought, as he mentioned and which I fully support, are modest. The sector is calling not for caps to be removed completely, but simply for the draw and turnover limits to be increased and jackpot prizes increased to £1 million. In the case of the minimum charity contribution, there are calls for the rules to be changed so that it is aggregated over an extended period for newly created lotteries, recognising the additional start-up costs in the early years.

Reforming in such a way, as hon. Members have mentioned, it would enable a strong national lottery as well as a strong society lottery sector. They can both work together, maintaining their unique positons and their very different characteristics. My hon. Friend made the point, which I fully support, that they are different. There are different motivations for engaging with the national lottery and with a society lottery. The national lottery is about winning big, life-changing sums of money. Society lotteries are about contributing to good causes, with a small benefit of perhaps winning some money along the way.

[Amanda Milling]

As other hon. Members have mentioned, reform has been discussed for some time. Indeed, it was in 2012 that the Department for Culture, Media and Sport first announced that it intended to review society lotteries. Five years on, following a Select Committee inquiry, a review by the Gambling Commission and two general elections, we are still having the same discussion about when reform is likely. I raised the matter in departmental questions in the House last month, and I urge the Minister to come forward with plans to reform the law as hon. Members have outlined. I should specifically like to know what plans her Department has to reform society lottery law, and what timetable is being considered for implementation of reforms.

3.21 pm

Wendy Morton (Aldridge-Brownhills) (Con): It is a pleasure to serve under your chairmanship this afternoon, Sir Edward. I, too, congratulate my hon. Friend the Member for North West Norfolk (Sir Henry Bellingham) on securing the debate.

Many hon. Members will have spent a lot of time in their constituencies in recent weeks—as they will in forthcoming weeks—at charitable events. That brings home to us what an impact charities and local organisations make at the heart of our communities. They are local people supporting local causes that benefit the community. I thank my hon. Friend the Member for North West Norfolk for reminding us how much money lotteries have raised for good causes. Today we have an opportunity to recognise the work of such organisations, as well as looking to the future. When we think about lotteries, often we think of the national lottery or the Heritage Lottery Fund, but if we dig under the surface of our communities, we find many much smaller, often local, society lotteries—the ones we are talking about. The amounts of money involved may be much smaller, but the work being done is none the less vital. The financial contribution may not be great, but it can make a big difference in the community.

Society lotteries give people choice. A person who wants to support a specific cause can choose a lottery accordingly. My hon. Friend the Member for Cannock Chase (Amanda Milling) has mentioned a couple in the west midlands—St Giles Hospice and the Midlands Air Ambulance. They are two among many. Over the years I have been fortunate enough to see in this country and internationally many tremendous examples of charity work, but today I want to highlight an organisation in my constituency that has benefited from the People's Postcode lottery. Manor Farm community association in Rushall does incredibly valuable work with local people at the heart of the community, often helping more vulnerable individuals who need a little extra support. Thanks to the People's Postcode lottery, it received support in 2012 for its project called "It's Just the Job!", and this year lottery funding supported its "silver connections" programme as well. I have looked at the sums, which may not be vast compared with the sums given out by other big lotteries—sums of £9,000 or £18,000—but they are big enough to make a big difference to such organisations' work.

Smaller charities often find it more difficult to find sources of funding, and that is why society lotteries are so important. We have heard today of many organisations that benefit, including the Canal & River Trust, Royal Voluntary Service, Magic Breakfast, Whizz-Kidz and Volunteering Matters. It will come as no surprise to the Minister that demand for charity funds is outstripping the available funding, and she will be aware that there are calls, as my hon. Friend the Member for North West Norfolk clearly explained, for reform of the society lottery sector. That would include raising the limits on charity lottery funding, to help to reduce admin costs and increase the funds going to the charities. That would mean more local charities and organisations like Manor Farm having the opportunity to bid for funds, which I would welcome.

Perhaps the Minister can clarify a specific point about operational costs. The hon. Member for Strangford (Jim Shannon) spoke of a minimum amount from the ticket price going to charity. I understand that there is a requirement that a minimum of 20% of the ticket price should go to charity, but often it can be much more. I have seen one instance of a minimum of 31% going to charity. That is an example of a society lottery putting much more back into good causes.

The Minister will no doubt want to continue with careful consideration of the matter, including the role of society lotteries, but I believe there must be a place for a strong national lottery and strong society lotteries. I hope it will not be too long before we hear from her following the consultation. Hon. Members will all know from constituency examples that charities and community voluntary organisations often provide extra little support services that Government cannot and perhaps should not provide but which make a difference to our constituents' lives. Those organisations often work quietly as the unsung heroes at the heart of communities, supporting older and vulnerable people, the environment and other good causes. We have heard a lot about the big society—perhaps we do not talk about it as much as we once did, but I still think there is a big society out there, and that it is worthy of our continued support.

3.27 pm

Brendan O'Hara (Argyll and Bute) (SNP): It is as always a pleasure to serve under your chairmanship this afternoon, Sir Edward. I congratulate the hon. Member for North West Norfolk (Sir Henry Bellingham) on securing this important debate, and pay tribute to all those who contributed. The SNP in this place and the Scottish Government agree that the current law covering society lotteries is past its sell-by date and is in need of an overhaul. The restrictions placed on charity lotteries make that kind of fundraising increasingly difficult and complicated, and limit charity lotteries' ability to support those working at the front line at a time when demands have never been greater and budgets have never been tighter.

Increasing the annual turnover limit and the draw limit will ensure that the moneys raised by society lotteries can be used to fund charities across the UK and the wider world, making a significant difference to the lives of individuals and communities. Like many hon. Members, while preparing for this debate I was contacted by numerous organisations seeking a change in the law. Among them was ActionAid, which explained that like many other UK charities it uses the income from its lottery to provide a level of service and support it would otherwise not be able to provide. The money

that ActionAid receives goes on life-saving work here and around the world, including programmes aimed at tackling violence against women and girls in Kenya, Ghana, Ethiopia and Rwanda. As a result, ActionAid and many other charities are strongly petitioning the Government to change the legislation to allow the annual turnover on a single society lottery to rise from the current £10 million to £100 million, and to raise the individual draw limit on a single society lottery from the current £4 million to £10 million.

I take on board what the hon. Member for Strangford (Jim Shannon) said, when he made his usual sensible contribution and highlighted the danger of encouraging further gambling, but I feel that there is a growing consensus that a change in the law is required. We have heard the Digital, Culture, Media and Sport Committee, the Lotteries Council, the Institute of Fundraising, the Hospice Lotteries Association, and many other charities such as ActionAid calling for that change.

One of the biggest concerns is the fear that increasing the scope of society lotteries will somehow have an adverse effect on the national lottery—as has been mentioned, there has been a drop in national lottery income and funds going to good causes this year. As I understand it, however, there is no evidence to suggest that the success of society lotteries has had a negative impact on the national lottery. Numerous studies by a range of organisations between 2012 and 2015 came broadly to the same conclusion that society lotteries complement the fundraising of the national lottery. The recent drop-off in people participating in the national lottery is believed to be due more to changes made by Camelot to the games themselves—both the Gambling Commission and Camelot recognise that.

In February this year the Gambling Commission stated:

> "Despite remaining the most popular gambling activity, there has been a continued decline in participation in the National Lottery draws coinciding with, amongst other factors, the increase in ticket price from £1 to £2 which was introduced in October 2013."

In September, Camelot was reported in the *Financial Times* as saying that

> "the main reason for the fall in sales last year was the disappointing performance of the National Lottery's core draw based games—especially Lotto, with player confidence in the game still fragile following the recent game changes."

Let me be clear: this is not a case of playing off the national lottery against society lotteries. Indeed—perhaps worryingly—I find myself in complete agreement with the Secretary of State who said last month that

> "we of course want to ensure that we have one strong national lottery, but that does not mean that we cannot also have strong society lotteries".—[*Official Report*, 16 November 2017; Vol. 631, c. 565.]

I am therefore pleased therefore that Nigel Railton, Camelot's new CEO, is on record as saying that, following an internal company review, he is optimistic that the national lottery will return to growth next year. I believe that we can have a world in which the national lottery and society lotteries co-exist, and that charities and good causes can continue to benefit.

We are all aware of the billions that the national lottery raises for good causes and we are delighted by that, but society lotteries also make a hugely valuable contribution and are successful in raising much needed funds for a wide range of charities and good causes. As the hon. Member for Cannock Chase (Amanda Milling) said, the current law means that there is a growing gap between what society lotteries do and what they could do. Nevertheless, they still raise a huge amount of money—as the hon. Members for Ceredigion (Ben Lake) and for North West Norfolk said, in 2011 society lotteries raised around £100 million for good causes, but they now raise more than £250 million. Such has been their success that that money has become one of the principal means of survival for many charities and organisations. As the hon. Member for Ceredigion said, society lotteries can help small local charities that could not otherwise access national lottery funding.

The hon. Member for Aldridge-Brownhills (Wendy Morton) and the right hon. Member for Witham (Priti Patel) spoke eloquently about the scope of local charities in their constituencies, and they were right to do so. However, not only local charities benefit. Many of the UK's best known charities, such as Children 1st, the Red Cross, the Marine Conservation Society, the Royal Botanic Garden Edinburgh, Dogs Trust, Save the Children, WaterAid, the Riding for the Disabled Association, and the wonderful Mary's Meals in my constituency, all benefit as well. Collectively, those charities are asking the Government to revisit the Gambling Act 2005 and make it fit for purpose. They argue that raising the existing cap on what society lotteries can pay out will allow more money to go to charity and good causes while reducing administration costs. The proposed changes have been much talked about—indeed, I understand that the Government's review was announced on 15 December 2012, which means that this was first discussed five years ago this week.

If we raise the prize money cap on society lotteries, the amounts of money won would not be the complete life-changing experience that happens by winning the national lottery. The Select Committee recognised that. The Secretary of State said recently that the Government remain committed to helping both the national lottery and society lotteries to maximise their contribution to good causes by establishing the right conditions to help them thrive with the appropriate level of regulation. Again I agree, but surely it is time for them to get on and create the conditions that will allow both to thrive.

There is clearly broad cross-party consensus for change. We know that those changes will not come at a cost to the taxpayer or damage the national lottery, and they can be brought forward easily via secondary legislation. It therefore remains only for Ministers to stop delaying and to bring forward the proposed changes as soon as possible. If the Minister is unable to make an announcement today, will she at least provide a timescale for when we can expect such an announcement?

3.36 pm

Dr Rosena Allin-Khan (Tooting) (Lab): It is a pleasure to serve under your chairmanship, Sir Edward. I thank the hon. Member for North West Norfolk (Sir Henry Bellingham) for securing this debate.

As many Members have said, society lotteries do fantastic work across the country and support a wide range of key local causes, including hospices, air ambulances, sports clubs, health charities, animal welfare and support for the elderly, and many other charities

[Dr Rosena Allin-Khan]

across the globe. At a time when Government budgets have been cut across all Departments and in local government, some of that support has been vital.

Hon. Members will agree that there are fantastic examples of good causes being supported in our constituencies. In Tooting, for example, a local day care centre was the recipient of a new garden, a health space was created for young homeless people, a new project to help older people get online was started, and many other such groups have received essential funding. Society lotteries are a force for good, and we welcome all efforts by hon. Members to consider ways to make the system better. We must give this sector a greater degree of certainty and clarity about its rules and governance, to ensure that maximum funding is available for good causes. With that in mind, will the Minister consider raising the minimum good cause contribution for larger society lotteries?

I agree with some of the recommendations made by the Lotteries Council, and believe that their members' No. 1 priority is to generate more income for good causes each year. Deregulation must not come at the expense of those good causes. The system and any changes to legislation that we consider must put good causes at its heart, and they cannot be forgotten in the rush to cut red tape.

I support calls for greater transparency in society lotteries, and information about where the money goes should be readily available. Given the data-driven society in which we live, why is it not the norm for us to be able to see how each lottery's proceeds are spent? If we could see what portion of each ticket is spent on causes, prizes and expenses, that would increase trust in the system, which is especially important if the Government are considering raising the annual turnover or draw limit. Will the Minister implement the Committee's recommendation of a 35% cap on operating costs for the largest lotteries?

We must be diligent in ensuring that caps on prize limits reflect the current political and economic climate, and that any renegotiation of the cap does not increase or promote bad gambling habits. Have the Government assessed the impact that increasing the prize caps may have on gambling habits? The Minister and I were both at the Gamble Aware conference last week, where that issue was raised.

One major concern that is often cited is the potential competition that the deregulation of the society lottery sector may bring to the national lottery. I believe that one main national lottery must be retained to maximise player participation and the financial benefits for good causes, but we must consider how the national lottery is set up and managed, given its recent drop in contributions. One organisation that is missing out is the Heritage Lottery Fund, which has announced that its budgets have been cut by more than £200 million. I am keen for the Government to have a plan to ensure that fantastic organisations that do incredible work across the UK do not lose out. What assessment has the Minister made of the impact of the reduction in national lottery good cause funding?

Does the Minister believe that expanding the ability of society lotteries to increase their prize draws would have a negative effect on the national lottery? Given that the current turnover and draw limit were set in 2005, it is right to look again at the rates and, potentially, to raise them. The Culture, Media and Sport Committee, as it then was, made a number of recommendations in 2015, but the Government have yet to take any action. Lotteries have been left in limbo for years, and the Government need to provide greater clarity about their intentions. Can the Minister tell me when the Government, whatever their decision, will make an announcement on any changes to the limits?

I said at the start of my remarks, and I think we all agree, that the main aim of society lotteries is and should remain to raise money for those who seek to do the best they can for the people at the heart of our communities. Motivations for playing the smaller lotteries, which are often tied to particular causes, are different from those for the national lottery, which people play to win for a life-changing amount. Both kinds raise millions for good causes, but they are distinct, and when considering easing the regulations on society lotteries, it is important to maintain that distinction. Any rises in prize thresholds must ensure a balance between the ability of society lotteries to raise more money for good causes and the national lottery's ability to do so being protected. If we move to liberalise the market, we must take steps to ensure that where the number of players, and the prize draws, increase the potential associated dangers or harms are fully assessed as part of the reforms.

3.41 pm

The Parliamentary Under-Secretary of State for Digital, Culture, Media and Sport (Tracey Crouch): It is a pleasure, as always, to serve under your chairmanship, Sir Edward.

I am grateful to my hon. Friend the Member for North West Norfolk (Sir Henry Bellingham) for calling what has been a stimulating and wide-ranging debate on an important issue, and I thank all Members who have taken part. Many of the issues that have been raised are complex, and are exactly the ones my Department has been grappling with for a while now, so it has been timely and invaluable to hear everyone's considered views.

I will start with some specific comments. The hon. Member for Ceredigion (Ben Lake) asked whether I recognised the value of society lotteries. Of course I do. I certainly do. Like those of many colleagues, my constituency has benefited from society lottery funding, including for Kent search and rescue and the Luton Millennium Green community nature park. So naturally, like many people, I understand the value of both society lotteries and national lotteries.

I want to deal up front with the issue of the advice from the Gambling Commission, which has been raised by many colleagues. I have received the commission's advice and have been considering it carefully. The commission will publish the advice in due course, and I hope to update Members soon. One particular piece of the advice, on transparency, was published just this afternoon. Many Members will know that the Gambling Commission recently consulted on introducing new licence codes to improve the transparency of society lotteries, and its proposals include requiring lotteries to publish the various proportions of their proceeds. I want first to deal with those issues—I will come back to the timetable later in my speech.

It is clear that the society lottery sector plays an important and growing role in supporting a diverse and wide range of good causes in the UK. We have seen sustained growth in the sector since 2008, when the per draw sales limit was doubled from £2 million to £4 million. Indeed, sales have increased by more than 100% in the last five years. Last year, a record £255 million was raised for good causes, which was an increase of more than 20% on the previous year. Not only are society lotteries raising more funds for good causes, they are giving a greater proportion of their sales back to good causes, with a sector average of just less than 44%.

Each year, more charities and good causes start their own lotteries to raise funds to support their important work. I recognise that, for charities, money raised through society lotteries has become an important source of funding, which allows their work to continue and grow. Colleagues will appreciate that I am the Minister with responsibility not only for gambling but for civil society so, whatever we do on the issue, I recognise the contribution the lotteries make to charities that I support in another part of my brief.

In 2015, I was a member of the Culture, Media and Sport Committee, the report of which many colleagues have cited today. We looked at society lotteries in some detail. The guiding principle then, as now, was that the regulatory regime which governs society lotteries should encourage the maximum return to good causes. The licensing regime should be light, protecting players without placing unnecessary burdens on operators. In some bizarre twist, I, in my role as the Minister responsible for lotteries, and the former Secretary of State for Culture, Media and Sport, the right hon. Member for Maldon (Mr Whittingdale), who had previously been the Chairman of the Committee, agreed either to accept the report's recommendations, or to explore them with expert advice from the Gambling Commission. The issues are important and complex, and it has been prudent to take our time over them and to consider a number of options.

My hon. Friend the Member for North West Norfolk and other colleagues mentioned limits, which was a recommendation for review in the Select Committee report. However, before making any changes to the current rules, it is important that all options are looked at and consideration is given to the wider picture. We do not want any unintended consequences.

The key consideration in the reforms has been how to strike the right balance between society lotteries and the national lottery. The sectors grew in tandem for many years, and it is important that any reforms enable them both to flourish. I want to pause here to acknowledge the importance of the national lottery. This year marks its 23rd anniversary and, since 1994, more than £37 billion of national lottery funding has been raised—an average of more than £30 million each week—for more than half a million projects all over the UK. The national lottery has had an unparalleled impact on 21st century Britain, making a valuable contribution to funding our many Olympians and Paralympians, our historical buildings and monuments, and even our Oscar winners, one of whom I was fortunate enough to meet a fortnight ago, alongside some of our future stars who are benefiting from film clubs run with lottery funding. It is, of course, our communities who benefit most of all from the lottery. The majority of national lottery money goes straight to the heart of our communities. Last year, most of the grants made were for £10,000 or less—small amounts going to community-led projects that make a huge impact.

I was sorry to hear that my right hon. Friend the Member for Witham (Priti Patel) is unaware of some of the national lottery funding in her constituency. We are working with all distributors to ensure that people are made more aware of the local as well as the national good causes that the lottery supports. Just as a headline, in my right hon. Friend's constituency the national lottery has funded the Museum of Power—somewhere we should all visit—Tollesbury sailing club and the local rifle club. I know that Braintree District Council covers more than her constituency, but it has had more than £18 million of Sport England funding. I do not know the details of all the other national lottery distributors, but I will ensure that we write to her with them.

Priti Patel: I know very well the distribution of national lottery funds and support in my constituency and I thank the Minister's officials for giving her the chance to tell the House today where the money has gone. But there is a point of principle here, which is that of competition and choice in communities—also the purpose of the debate—ensuring that society lotteries are able to compete with the national lottery and that a wider pool of funds goes to a much wider range of local charities and communities.

Tracey Crouch: I am grateful for my right hon. Friend's point, which—she is right—the whole debate has addressed. It is important, however, and other colleagues have made this point, that we have a strong national lottery. It has become a part of our national fabric, but that does not mean that we cannot also have strong society lotteries. The Secretary of State made that point recently.

Sir Michael Fallon: No one doubts the success of the national lottery. It is an enormous achievement and we should be very proud of it, but how do we know whether a quarter of a century further on it will continue to be as successful as it could be?

Tracey Crouch: We are constantly reviewing matters. The Gambling Commission constantly keeps the national lottery under review, and I am sure that colleagues are aware that discussions are already beginning about the next licence procedure. We have to have a healthy mix of lotteries. I recognise, as my right hon. Friend the Member for Witham pointed out, that not everyone is aware of the local good causes. There has been an issue that the national lottery money that goes to those good causes has not necessarily been promoted as well as it could be. Society lotteries have done that much better, and we want to ensure that we have a vibrant mix of national and society lotteries.

I am the Minister with responsibility for charities, so I have heard from many charities that benefit from society lottery funding, whether that is their own or a grant from such lotteries as the People's Postcode lottery or the Health lottery, both of which support a multitude of good causes throughout the country. We have heard about some of those good causes today.

I have spent a long time looking at the evidence on the relationship between the national lottery and society lotteries. We know that the two sectors offer different and distinct propositions to players. The national lottery enables players to support a wealth of good causes in

[Tracey Crouch]

the hope of winning a life-changing prize, while society lotteries focus for the most part on affinity with a specific cause and are subject to limits on their annual and per draw sales and their maximum prize. For that reason, I do not believe there has been significant competition between the two sectors up to now, but reforms must be considered through that lens.

It has been interesting to hear the arguments regarding the prize limits on offer through various lotteries. It is no coincidence that when the national lottery draws have big rollovers, there is an increase in ticket sales—bigger prizes attract more players—but I do not think people are attracted to society lotteries in the same way. Many large society lotteries offer relatively low prizes but are still thriving, which speaks to the point that my hon. Friend the Member for North West Norfolk made. It is not always about the size of the prize; what is important is maintaining the balance and variety currently on offer.

I will briefly respond to the points made by our Northern Ireland colleagues. Although lotteries carry a lower risk of harm than commercial gambling, they are still a form of gambling, and tickets can be bought at 16. That is one reason why we are considering the evidence carefully before making a decision. Gambling policy in Northern Ireland is devolved, as was pointed out. I have listened with interest to the points that the hon. Member for Strangford and others have raised, and I encourage them to raise them with the Northern Ireland authorities. In addition, colleagues will know that I announced a consultation on social responsibility on 31 October. It will look at advertising, which was a point that the hon. Gentleman raised, and I encourage him to feed into the consultation. I continue to keep the devolved Administrations up to date on our work on this issue.

Gavin Robinson: The Minister will be aware that the Northern Ireland legislation on gambling and social charities has not been revised since 1994. The Department for Communities started a consultation in 2011, and we still have not got the outcome of that process. It is no surprise that there is huge divergence between the legislative framework in Northern Ireland and that in the rest of the United Kingdom. Given that we do not have devolved institutions at the moment, and regrettably might not for some time, it might be worth the Minister engaging with the Department for Communities to get an update on where that consultation is.

Tracey Crouch: I would be very happy to do that. The hon. Gentleman makes a good point.

The other comment I wanted to make was on the call for evidence. Responses to the call for evidence have been considered alongside the Gambling Commission advice. The process has taken time. There have been two general elections since it started, but I assure colleagues that it is very much at the forefront of my current work. We are carefully considering the evidence. While colleagues may say that there is consensus for change, which is true, I respectfully point out that there is not necessarily consensus within the sector on what the changes should be, and we are looking at that area as part of our consideration. As my hon. Friend the Member for North West Norfolk and others have pointed out, changes to the limits for sales and prizes can be made by statutory instrument, but the parliamentary process, as many know—there are some very experienced colleagues in this room—can take around nine months to conclude from when an announcement is made. We are trying to work the issues through. I hope to be able to update colleagues in more detail in the new year.

To conclude, society lotteries, both large and small, play a rich, varied and important role in supporting and championing good causes. For some, they may well be the mechanism for providing their main sources of income, and it is my intention to ensure that the sector has every opportunity to grow and thrive. I thank my hon. Friend for giving us the opportunity to set that on the record.

3.54 pm

Sir Henry Bellingham: First, I thank my hon. and right hon. Members for their support. What has been notable in this debate is the extraordinary cross-party support and the strong support from all parts of the United Kingdom: Wales, Northern Ireland and Scotland and many different parts of the country. There is overwhelming support for the changes. I should not forget the official Opposition, who gave significant support to my proposal.

One thing that struck me is that every hon. and right hon. Member who has spoken has made it clear that society lotteries are truly distinct from the national lottery. There is space for both to operate. I am very grateful to the Minister for her remarks. I am absolutely convinced that the positive response she gave will be greatly appreciated. I accept entirely that these things always take longer than we expect, and I respect and understand her wish to avoid unintended consequences. I also entirely appreciate that there are issues around some aspects of gambling, but the people who buy society lottery tickets—yes, of course they are interested in that prize—want to support a charity on their doorstep that they feel an affinity with. They have a sense of ownership and commitment and passion towards that. We are only talking about a small prize—as I mentioned in my speech, £25,000 is scratchcard territory—and there has to be a bigger incentive or prize at the end of the draw. A prize limit of £1 million would not in any way trespass on the national lottery, which offers life-changing sums.

I want to pick up on one point that the Minister made. I absolutely respect her—I think she is one of the best Ministers in the Government. Her knowledge and expertise on, and passion for, her brief always come across to me. She is so knowledgeable not only on sports, but other issues as well. I absolutely expect her to look at this in great detail and go through all the arguments. She said there was not widespread or overwhelming sector support, but the only organisations that pushed back, as diplomats would say, when I launched the debate, were the National Council for Voluntary Organisations and Camelot, and I think we can discount Camelot fairly quickly. What the NCVO said was very interesting. It wants to see the process simplified to allow more society lotteries into the market. We support that 100%. It wants more transparency, which I think we can deliver. It wants to see less admin, and raising the draw limit to £10 million would greatly

reduce the level of administration. Indeed, my hon. Friend the Member for Gordon (Colin Clark) made that point very clearly.

Interestingly, the briefing from the NCVO has changed. Earlier in the year, it said clearly that it would be better not to go down the route of having any significant SI or deregulation, but it now recommends that proceeds and prize caps should be increased—it is simply a matter of what they are increased to. So long as that is combined with greater transparency, the NCVO is more or less on side. I challenge the Minister to let me know, perhaps in writing, whether other organisations are putting forward a contrary point of view to the very strong arguments advanced this afternoon.

What the Minister can take away from the debate is that there is widespread support across the nations of the UK to make the changes. We have a great relationship and understanding with her, and she has our respect. We now want her to deliver, and if she does, she will have the overwhelming support of the House. As I think has come through this afternoon, that support will be not just on the Government Benches, but across the entire House.

Question put and agreed to.

Resolved,

That this House has considered the future of society lotteries, the Health Lottery and limits on prize values.

Children's Services

[Mr Philip Hollobone *in the Chair*]

4 pm

Fiona Onasanya (Peterborough) (Lab): I beg to move,

That this House has considered the provision of children's services by local authorities.

It is a pleasure to have the opportunity to debate the provision of children's services by local authorities. My reason for introducing the debate is that I understand that the pressures facing children's services are rapidly becoming unsustainable, with the combination of Government funding cuts and huge increases in demand leaving many areas struggling to cope.

More and more vulnerable children are in need of care. Children's charities, including Barnardo's, the Children's Society, Action for Children, and the National Children's Bureau, have described a crisis facing children's services, highlighting that central Government's decision to deny councils funding is affecting the quality of vital children's services. Councils have suffered a 40% cut in funding since 2010, leaving them unable to meet soaring demand and to provide safe, effective children's services. Local authorities overspent on children's services by £365 million in 2014-15, and by a further £605 million in 2015-16. That overspend shows how dire the situation is for them, and that the funding is insufficient.

Due to cuts, one in three Sure Start centres have closed since 2010. There are now more than 1,240 fewer designated Sure Start children's centres. The Local Government Association has forecast that children's services face a £2 billion funding gap by 2020. Serious child protection cases have doubled in the last seven years, and around 500 new cases are launched in England every day.

Lucy Allan (Telford) (Con): The hon. Lady is to be congratulated on moving this important motion and I am grateful to her. I hope she will join me at a later stage in introducing a Backbench Business Committee debate so that this extremely important motion can be debated more fully. Does she agree that it is a stain on our society that we have so many children being taken into state care, and that the focus is on taking children from their families, rather than on preventive measures that would enable them to stay safely at home?

Fiona Onasanya: I agree, but local authorities need to have funds to invest in resources to make prevention a possibility. We cannot keep cutting their funding and expect them to do more with less. I would be more than willing to join a Backbench Business Committee debate, but the issue that I am seeking to highlight is that the funding strategy is failing our local authorities.

Marsha De Cordova (Battersea) (Lab): I, too, congratulate my hon. Friend on securing today's debate. Does she agree that the last seven years of cuts to children's services have had a negative impact, leading to the closure of Sure Start centres and more children going into care, and that that impact has fallen disproportionately on poorer children?

Fiona Onasanya: I absolutely agree. The fact that we are cutting vital funds to local authorities has a direct impact on the services that can be provided, and those whose families are from an impoverished background are disproportionately affected.

Jo Platt (Leigh) (Lab/Co-op): I, too, congratulate my hon. Friend on introducing the debate. Does she agree that it is not just children who are in crisis, but families? The cuts to early intervention and prevention grants in my area of Leigh have led to a rise in drugs and alcohol abuse, homelessness and mental health issues, which affect both children and adults.

Fiona Onasanya: I agree. When we talk about funding for children, we have to look at the whole family, or at the whole child, so to speak. A child is not there in and of themselves—they come from a family. When looking at prevention, we need to look at how the child got into that position in the first place and what steps can be taken to support families, to ensure that they can be the support network that the child so vitally needs.

Anne Marie Morris (Newton Abbot) (Ind): We have talked about this being a broad issue around the individual. Does my hon. Friend agree that social services have an impact not only on the child and the family, but in education? Not having support from social services for children with difficulties puts pressure on teachers, who are effectively having to pick up the challenge. Likewise, there is an effect on the NHS. Certainly in my part of the country in Devon, only one tenth of the overall mental health budget is spent on children. If there is no support in social services, the impact is inevitably on the NHS.

Fiona Onasanya: I agree. My concern, however, is that if we shift the focus solely to either the NHS or education, we are missing something, because preventive services that local authorities provide need to get in early. If funding is not there at the outset, that has a knock-on effect and affects education. Teachers have to be the parent and the teacher—raising the children rather than just teaching them. I have seen that even in my constituency of Peterborough, but we need to scale it back and look at the cause. If we start at the beginning and say that prevention needs to involve looking at children's services, we need to ask what services we are offering the whole child and what services we can offer to the whole family. If we give support to the whole family when the child is school-ready, that should have a beneficial effect. We want to look at prevention, rather than just dealing with the consequences of the lack of funding.

As I said, the Local Government Association has forecast that children's services face a £2 billion funding gap by 2020, serious child protection cases have doubled in the last seven years, and around 500 new cases are launched in England each day, yet no new money was given in the Budget for struggling children's services. In my constituency of Peterborough, the local authority is set to lose another £30 million over the next three years and, as of 23 October this year, the Government grant had been reduced by 80%. Between 2010 and 2015, expenditure on services for children and young people fell by £7.8 million in real terms—a fall of 21.9%. I received email correspondence from a constituent named Tracie, who said:

"Social Services are a nightmare".

Appointments are repeatedly cancelled and social workers do not reply to emails, because our local authorities are overstretched and underfunded. As I said, we cannot keep expecting them to do more for less.

On 31 March 2015, 1,860 children in Peterborough had been identified through assessment as being formally in need of a specialist children's service. Furthermore, 354 children in Peterborough are being looked after by the local authority and 23% of those are living in poverty. We need sustainable forms of funding, based on the cost of delivering current and future services, and not regressively focused on past spending.

4.9 pm

The Minister for Children and Families (Mr Robert Goodwill): I congratulate the hon. Member for Peterborough (Fiona Onasanya) on securing this important debate. I was pleased to meet her briefly yesterday for the first time to discuss today's topic, and I appreciated the passion and eloquence with which she argued her points, but although we may agree on the analysis of the problem, the solutions may not be as simple as she thinks.

I am sure we both agree that local authorities are tasked with providing some of our most important public services. Very clearly, we also agree that some of the most critical are the services that they provide to protect and support our most vulnerable children. That is a varied and complex responsibility, ranging from proactive and preventive early help to support children and families who are struggling to manage, to the critical end of the spectrum, as we have heard, where there is a real risk—a live risk—to young people, and where social workers are tasked with making tough decisions that protect lives and transform outcomes.

Right now, two thirds of our most vulnerable children live in local authorities where service provision is less than good. Although 89% of our schools are good or outstanding, only 36% of children's services received the same rating. My Department works tenaciously to address that, but it is not an acceptable state of affairs. We are engaging with our colleagues in the Department for Communities and Local Government on the questions that the hon. Lady raises about funding, but we must be realistic. Quality is not only dependent on money. High-quality services need excellent leadership, a skilled and experienced workforce, and rigorous, evidence-based practice. Since I started this job six months ago, I have been impressed by how much of that good work is already out there and how much my Department has already done to spread it more widely.

Our reform agenda was set in 2016 and put into legislation earlier this year. The far-reaching suite of reforms set out a deeply ambitious approach to tackling the challenges within the system. It was intended not only to implement short-term interventions that would create better outcomes for children within the system now, but to lay the foundations for the future, ensuring that in years to come local authorities were equipped to deliver high-quality provision to future generations of vulnerable young people.

As part of that, over the past few years we have launched a major programme of reform to expand the numbers and quality of those entering social work. Frontline and Step Up are now well established entry-level

schemes attracting high-performing graduates and older career changers into the profession, to bolster some of the excellent teams already out there. Meanwhile, the national assessment and accreditation system, due to launch in July, will raise the professional status of child and family social workers, providing a clear career path, as well as ensuring that these critical public servants have the knowledge and skills they need to practise effectively.

Our ambition is to create a truly evidence-based learning system for the sector, and the work is already well under way. This autumn, I was pleased to announce the two organisations that would establish the world's first What Works centre for children's social care. That vital piece of the reform jigsaw puzzle has now begun its incubation and I am excited that, not long from now, that fabulous resource will be used daily by policy makers, commissioners and practitioners, supporting them to make informed decisions, based on a rigorous catalogue of evidence that lets them know in an easy and accessible manner what interventions work.

That will be bolstered by the developing evidence from the children's social care innovation programme, which since 2013 has injected £200 million into the sector to support nearly 100 innovative projects designed to improve outcomes for children across the country. The hon. Lady will know that her own constituency has benefited greatly from two such initiatives. Peterborough has received funding of up to £1.2 million over three years to support the commissioning of its fostering, adoption and permanency services to the Adolescent and Children's Trust, a non-profit organisation committed to securing better and more permanent outcomes for all children and young people in care. Peterborough is also one of the four local authorities that is replicating the successful Hertfordshire innovation project. With funding from the first bidding round of the innovation programme, Hertfordshire has seen great results for children and their families with their family safeguarding model of social work. We are excited to see how the scale and spread of that model to Peterborough, Luton, Bracknell Forest and West Berkshire will replicate similar results for families in those areas.

Jo Platt: Does the Minister agree that what he is talking about is the higher end and most costly element of children's services, which is our looked-after children and our children in care? What we need to do is to put that resource in at the earlier stages with children, before they go into crisis.

Mr Goodwill: The hon. Lady is absolutely right. I visited the Pause programme in south London, which works with women who may become pregnant and have their children taken into care regularly, to break the cycle that makes life so difficult for them and, of course, for the children who have to be taken into care. It is an innovation that saves money. I was told that for every £1 invested in the programme in Greenwich, they save £5 in other interventions. Life is much better for those women. I met a number of women who had been involved in the project.

That is not to say that the system is delivering across the board or that we have achieved success in achieving our vision of a country where all children are protected from harm. There are still too many examples of young people and their families being let down by poor-quality services. My Department continues to take action to intervene where performance is not good enough.

Lucy Allan: Is the Minister aware of the comment from the chief executive of the Children and Family Court Advisory and Support Service that there are children in care unnecessarily—children who would not be in care if they had the help that is available in some parts of the country? The inference is that the service is very patchy and that a child might end up in the care system, when elsewhere in the country there would be sufficient investment to help protect them and keep them safely at home.

Mr Goodwill: My hon. Friend is absolutely right. We have authorities that have dramatically reduced the number of children being taken into care by making early interventions. That saves money, makes the local authority more cost-effective and is the sort of innovation that we want to spread around the country, from the good or outstanding authorities to the other authorities that are, unfortunately, letting down too many children and not spending the hard-earned taxpayers' money deployed for their use as effectively as they might. We need to improve the standard of children's social care in so many authorities where they are not delivering as well as elsewhere.

We have strengthened our approach to intervention in cases where councils are failing to provide adequate services for children in need of help and protection, looked-after children or care leavers. That programme of intervention is yielding real results. Some 36 local authorities have been lifted out of failure since 2010 and we are seeing a positive impact from the independent children's social care trusts that we have set up in Doncaster and Slough. We also have great examples of local authorities, such as Leicester City and West Berkshire, that have turned their services around at an impressive pace, underlining what can be achieved with a relentless focus on improvement along with the right help and support. I am of course pleased with such results, but I am not complacent—we will continue to act swiftly in cases of failure and to act decisively to ensure improvement is happening everywhere in the system.

We have identified £20 million to be invested in improvement support to help create a system of sector-led improvement, founded on systematic and effective self-assessment and peer challenge. We have enjoyed real success in working with sector partners on that. Together, we are testing a system of regional improvement alliances that will, in time, spread to the whole country and enable a robust system of support and challenge between local authorities, supported by key partners such as Ofsted and my Department.

We are expanding our partners in practice programme. Our PiPs, as they are familiarly referred to, are excellent local authorities whose children's services are secure and whose leadership is strong. For a few years now, the partners have been pioneering excellent practice and working systematically to spread it across the system. They are a model of good practice, not seen from a distance but working hand in hand alongside teams in other authorities that want to learn and improve their own practice. For example, North Yorkshire, my own excellent Conservative-controlled local authority, is working

[Mr Goodwill]

with other councils to diagnose problems and agree on what support is needed, extending practical help to nine areas across the country. We aim at least to double the number of partners in practice in the current expansion application process. That will ensure we have dedicated teams of excellent practitioners, with additional capacity built into their council, which enables them to get into struggling authorities and offer practical, on-the-ground support to help them to improve their service provision.

It is clear that much has already been done to ensure that every penny spent on children's services is being spent effectively on delivering good outcomes for vulnerable children.

Kirstene Hair (Angus) (Con): The spend on agency staff has nearly doubled across the UK, not just in Scotland or England and Wales. Does the Minister agree that spending huge sums of money on agencies drains funding, which leads to a poorer quality of services across the board, so something needs to be done to attract more people to that career path?

Mr Goodwill: My hon. Friend is absolutely right. One of the typical problems that I come across when I visit failing authorities is that they have trouble retaining and recruiting staff, and therefore tend to rely on agency staff to do that work. I do not want to detract from the work done by agency staff, but the cost of using them can sometimes be twice as much as the cost of employing people in-house. It is a frustrating side effect of failure, and it means that other factors come into play that make it even more difficult to get those authorities back where they need to be. That is why partners in practice and other innovations are working so well to improve the quality of children's social care. Getting decisions right first time is the best way of ensuring that children who may be in danger and are certainly in need get what they need.

Local authorities increased spending on children and young people's services to more than £9 billion last year. In some areas, demand for services is rising and local budgets are under pressure. We recognise that councils are delivering children's services in a challenging environment, and they need to make tough choices about their priorities to achieve efficiencies. The Government have already done much to support local government spend. We are in the second year of an unprecedented four-year finance settlement for local government, which was accepted by 97% of councils. It gives authorities greater funding certainty over the medium term and enables them to be more proactive in planning for the long term. It also better equips them to prepare for the upcoming reforms under which local government will be funded through local taxes.

It is indeed critical to get funding right, and we do not rest on our laurels. We recognise that funding pressures on local authorities may be greater in some parts of the country than in others, and we are aware of concerns about the fairness of the current funding distributions. The Government have therefore reaffirmed our commitment to the DCLG-led fair funding review, which aims to address concerns about the fairness of the current funding distributions. We will carry out an evidence-based review of the funding formulae to ensure they reflect the shifting factors that impact on the cost of providing services, such as changing populations and demographic pressures. Department for Education officials are working closely with colleagues at DCLG and with the sector, and are determined to get this right for children's social care services.

The hon. Member for Peterborough briefly mentioned Sure Start centres. There are 3,130 children's centres still open, and they deliver excellent care in many cases. That is a fall of only 14%. I think the mistake is often made of not including children's centres that have additional sites that have been amalgamated from a management point of view. There are still a lot of children's centres opening.

It is also interesting that more family hubs are opening. Many local authorities see a family hub as a better way of delivering services to local people. I visited the children's centre in my constituency—I mentioned this last week in the House—where some excellent work was being done on engaging with families, who were being shown how to produce cheap, nutritious meals with simple ingredients. The lady in charge looked out the window and said, "The children we really need in this centre aren't here in the children's centre. They are at home looking for a dry crust of bread in the kitchen because their mother hasn't recovered from the hangover she inflicted upon herself the night before, or maybe the family is so dysfunctional that they are not able to get them here." The workers at family hubs have been effective in getting into homes. It frustrates me that more than a quarter of parents do not take up the 15-hour free childcare availability for the most disadvantaged two-year-olds, but I have heard that in Warrington the take-up is approaching 100% because of the way Warrington Borough Council has engaged with families and got them into the provision. There is a lot that can be done to improve the way the service works.

There are 30,000 children and families social workers employed in England, which is an increase of 4.7% on last year. Although there are 5,540 vacancies on the books, 71% of them are taken up by agency staff. Local authorities can be successful in getting their workers back on to the payroll, rather than employing them through agencies.

The hon. Member for Peterborough said that too many children are going into care. In some cases, local authorities can safely bring down rates of looked-after children. The innovation programme is part of the answer to that problem, and it enables good practice to be shared. In other cases, it is a sad but necessary intervention. It may be down to better identification of issues relating to child sexual exploitation and gang risk. Overall, the decision is for the local authority. The best interests of the child and the protection of the child have to be paramount.

Providing support for preventive services and preventing cases from escalating must be at the centre of the work of every single director of children's services and social worker around the country. The DCLG provides funding through the troubled families grant, which supports struggling children and families. We have funded a number of programmes that focus on getting help right early in the innovation programme.

I am enormously grateful for the attention that the hon. Lady has given to this issue. It fills me with confidence to know that there are people on both sides

of the House advocating for the most vulnerable in our society. As I hope she can see from the reforms I outlined, we are committed to making a real change to the system that is as deep and long-lasting as it is wide-ranging. I also hope that she acknowledges the work we have already begun, which will ensure that this crucial service has the right amount of money and that it is being spent on the right things and in the right places. Collaboration across Whitehall and across the sector will ensure that my Department builds a system that weathers challenges both now and in the future and ensures that this country continues to lead the way in its provision for the most vulnerable children.

Question put and agreed to.

Healthcare Optimisation Plan: Kirklees

4.27 pm

Paula Sherriff (Dewsbury) (Lab): I beg to move,

That this House has considered the healthcare optimisation plan, Kirklees.

It is a pleasure to serve under your chairmanship, as always, Mr Hollobone. As is now widely acknowledged, our NHS is under ever-increasing pressure, and budgets are stretched beyond capacity in almost every part of the country. In my area of Kirklees, we face unprecedented cuts and challenges. Both of the local hospitals that serve my constituency have been subjected to downgrades and the closure of vital services.

The financial challenge in health services across Kirklees is unprecedented. There are reports that deficits are forecast to reach record levels by the end of this financial year. Sadly, that is mirrored across the country as a result of the Government's onslaught of cuts to our public services. To be frank, our NHS is being starved of money to the point at which lives are being put in danger, and financial decisions are being given priority over clinical judgments. Every day, we see the pressure that the NHS is under. Hospital waiting times are up, it is harder than ever to get a GP appointment, ambulance waits are increasing, and hospital wards are seriously understaffed. As the weather turns to freezing, we are all fearful of a repeat of last year's winter pressures, when people were dying on hospital trolleys, waiting to be seen.

Only this week, the highly respected Lord Kerslake resigned his post as chair of King's College Hospital board, claiming that NHS funding desperately needs a rethink and that the demands for savings are unrealistic. That came on the back of comments from NHS England's chairman and its former national medical director, following their disappointment that sufficient money was not made available in last month's Budget.

The chairman, Professor Sir Malcolm Grant, said:

"We can no longer avoid the difficult debate about what it is possible to deliver for patients with the money available."

Professor Sir Bruce Keogh added his personal view:

"Budget plugs some, but"

definitely

"not all, of NHS funding gap",

which would

"force a debate about what the public can and can't expect from the NHS".

He added that it was:

"Worrying that longer waits seem likely/unavoidable."

In the face of such financial pressures, the two clinical commissioning groups covering my constituency, North Kirklees and Greater Huddersfield, have recently released plans to introduce what they refer to as a health optimisation programme, which would restrict access to elective surgery for those who smoke or who are obese. Make no mistake, whatever title is given to the scheme, it is nothing more than a thinly hidden attempt at rationing healthcare for those in need. Smokers would be given six months to quit, and for those who are considered to be obese—measured by a body mass index of more than 30—the requirement would be to lose 10% of their body weight within 12 months.

Thelma Walker (Colne Valley) (Lab): Does my hon. Friend agree with me that the use of BMI to classify whether someone is obese is, frankly, laughable? Does she agree that Greater Huddersfield CCG needs to look at an alternative measure that would not put Huddersfield Giants prop forward Sebastine Ikahihifo, whose BMI is 32.3, in that category?

Paula Sherriff: I thank my hon. Friend and neighbour for her very valid intervention. I was just about to say that BMI is very subjective. As we are all aware, some high-performance athletes or bodybuilders have a BMI higher than 30 but are at the peak of health.

Obviously I agree that any moves to aid weight loss and stop people smoking are a good thing, but not at the expense of excluding people from NHS treatment. If the CCGs were so determined to achieve better outcomes in those areas, they would invest in better smoking cessation services and weight-loss programmes, but the reality is that in recent years those services have been among the ones to suffer cuts.

Given the budget restrictions and taking into account the views of the professionals, who advise that there is little if any evidence in support of any improved outcomes as a consequence of such measures, I can only draw the conclusion that the proposals to ration surgery are nothing more than a cost-saving exercise. The CCGs argue vehemently against that view, but North Kirklees CCG admits that health optimisation is one of 21 cost-saving measures identified to meet the existing financial challenge that might see its deficit rise well beyond predicted levels by the end of the financial year. At best, it seems to be an ill-conceived plan that has not been thought through correctly.

As anyone involved in healthcare knows, the providers and commissioners in any area often form a hectic Venn diagram. That is no different in the borough of Kirklees where my constituency lies. The two hospital trusts that serve my constituency are overseen by four CCGs. Of those, only three are considering and proposing to implement a health optimisation programme. That means, in effect, not only a postcode lottery but a waiting list for elective surgery—a smoker from Wakefield might be allowed on to the list while his or her equivalent in Dewsbury, some nine miles away, would be forced to wait six months before even being considered for surgery. That would be completely unjust, unfair and morally wrong. The irony is that those same two patients would have their surgery in the same hospital.

When reading further into the small print of how health optimisation would work, I became even more alarmed. The decision on whether people can be referred for treatment would lie initially with their GP. He or she is able to make the decision on whether to refer or to put the patient on the health optimisation programme. Patients put on the programme would have six months to quit smoking or 12 months to lose weight. After that time they would be referred to a specialist who would decide if they qualified for treatment. My understanding is that that means, in effect, people could lose 10% of their body weight in the hope of receiving a knee or hip replacement, for example, only to be told that they do not qualify for the surgery. Not only that, but one month from the end of the programme, patients are asked if they still wish to be referred. That is where louder alarm bells started to ring for me. It is absolutely clear that the decision on whether to operate, or whether the patient needs surgery, must be made by the relevant surgeon and not by people who do not have all the facts in front of them.

I ask Members to picture this scenario: Mrs Smith has been told that she has to lose 3 stone before she can be referred to a specialist regarding the pain in her knee. She tries to lose weight but finds it incredibly difficult, not least because her knee pain prevents her from exercising. Mainly being housebound affects her mental health, causing depression, which in turn leads to comfort eating. She tries to attend the weight management group that she was referred to but becomes disheartened and embarrassed when each week her weight either stays the same or increases, so she stops going. After 11 months she receives a letter asking her if she still wants a referral to an orthopaedic specialist to look at her knee. She knows that her weight has actually increased so she ignores the letter, because the thought of having to face up to her weight gain is far too humiliating. The pain in her knee is now excruciating, but she dare not face the surgeon when she feels such a failure. That could be a very real outcome if the plans are implemented. The NHS might save money and waiting lists could look far better, but what about the human cost? I implore the Minister to think about just that—the human cost.

A list of exceptions in the rationing proposals include: conditions that are immediately life threatening; patients who require emergency surgery or have a clinically urgent need where undue delay would cause clinical risk of harm; and patients undergoing surgery for cancer. Nowhere do the proposals mention any measure of the patient's quality of life. I have heard stories from constituents who have had to give up work because their mobility has become so restricted while waiting for knee or hip operations, or whose weight has increased to levels of obesity simply because they cannot walk or exercise like they used to. How does naming and shaming those people on a rationing list improve their quality of life?

I also ask the Minister where the rationing ends. Is there a plan to stop providing surgery and treatment for, perhaps, people who play rugby, or teenagers who break their leg horse riding? Would we say, "No, you can't have surgery, because your own actions led to this"? What about people who drink alcohol moderately? Would we say, "You cannot have treatment for your liver sclerosis because this is a lifestyle choice"? Is this the start of the beginning of a much bigger rationing programme?

In preparation for the health optimisation programme, Greater Huddersfield and North Kirklees CCGs stated that they had carried out a public engagement exercise. On research, I found the questions that they had asked, which included: "Please tell us how we could encourage people in Kirklees to live a healthy lifestyle?"; "Please tell us what support you think should be available to help people lose weight and stop smoking before their surgery?"; "When and how do you think that support should be provided?"; and, "Please use this space to provide any additional comments you have about supporting people to lose weight or stop smoking?". Nowhere did the questions ask for opinions on whether people should be excluded from surgery because they are overweight or smoke. The CCGs' failure to be up front and honest about their proposals can only indicate their embarrassment at having to implement such a scheme simply as a result of budget restraints.

Statistics show that approximately 30% of the population of Kirklees either smoke or have a BMI of more than 30, so almost one in every three people in my constituency could be turned down for elective surgery. North Kirklees and Greater Huddersfield CCGs acknowledge that there is not enough existing provision to support people being put on to the health optimisation programme, whether in smoking cessation services or weight-loss programmes. In the health optimisation programme proposal, the CCGs state that they will undertake a tender exercise for a

"'Zero Value - Activity based' contract with additional providers".

What that means is anyone's guess, but I strongly suspect that no new money will be made available, given the financial position of our local NHS services.

The plans have so many pitfalls that they simply must not be implemented, and the Minister can be sure that I will fight them every step of the way. Clinical commissioning groups should not face such intolerable choices. I do not believe that anyone delivering healthcare entered the profession to make cuts or to restrict people from receiving treatment that they desperately need to improve their quality of life. I therefore call on the CCGs to halt their plans to introduce the health optimisation programme for all the reasons that I have listed and many more. I ask the Government to listen to the experts, including the Royal College of Surgeons, to put an end to the draconian cuts and to provide us with a fully funded healthcare system that is accessible to all.

I would like to finish with a quote that I have used many times before, both in this Chamber and away from it. Nye Bevan, the founder of our great national health service, said that the NHS will last as long as there are folk left with the faith to fight for it. I will never lose faith or stop fighting. I hope that the Minister will say the same.

Mr Philip Hollobone (in the Chair): The debate can last until 5.30 pm. There is one Member who wishes to speak, and before the debate ends, Paula Sherriff will have three minutes to make her concluding remarks. The guideline limits on speeches are ten minutes for Her Majesty's Opposition and ten minutes for the Minister, but I expect that they will be able to speak a little longer. I call Rachael Maskell.

4.40 pm

Rachael Maskell (York Central) (Lab/Co-op): It is pleasure to serve under your chairmanship, Mr Hollobone. I want to start by thanking my hon. Friend the Member for Dewsbury (Paula Sherriff) for making such a powerful case about why the health optimisation programme is failing the public, failing patients and failing all of us. Her contribution to today's debate reminded me of the Adjournment debate that I brought to the Chamber on 28 February, which the Minister attended. My speech was parallel. That reinforces how urgent it is that this issue is addressed.

I am proud of so many things about York, but one thing I am really ashamed about is the way that it has gone about rationing healthcare. It was one of the first places to ration healthcare. When the Health and Social Care Act 2012 came in, it had to back-pedal, and then it stepped forward in 2016 in rationing healthcare, particularly surgery for patients who urgently needed it to be provided. There seem to be some key issues that we need to address that are not being addressed in the debate. I had a very helpful meeting with the Minister the other day, but there was little progress on the back of it. We need the Minister to make an intervention and not to say that it is a matter for CCGs to change their practices.

What is evolving is a massive postcode lottery across the country. My hon. Friend referred to a BMI of 30, which her CCG uses as an indicator to draw the line to provide access for surgery. I know that other CCGs use a BMI of 35. That absolutely demonstrates that this is not based on clinical evidence, but is about the financial expediency of CCGs. Therefore, it is absolutely crucial that we go back to clinical evidence when making decisions about patients. That is why we invest so heavily in our medical profession: to go through that training, to have the skills and the ability to do that. They are being completely undermined by these arbitrary figures that are being put into use for the basis of saving money. That is what this is all about, but they are not saving money, because people come back more poorly in future and require even greater resources. It may be save today, but it is spend more tomorrow. Surely that should not be the policy of any Government, let alone the one we have at a time when they keep claiming that there is not enough money.

It is absolutely crucial that the Minister intervenes because we are talking about a population with health inequality. All the demographics and the research show—I am particularly grateful for the University of York's work on epidemiology—that there is a correlation between health inequality and social and economic inequality. The very people who are being denied surgery are the people who are most disadvantaged in society. There is a whole predication against those individuals. We know that there is a correlation with shorter life expectancy.

It is absolutely crucial that the Minister makes an intervention to improve the quality of life for these individuals. Therefore, although it seems that my hon. Friend's CCG is attempting to do more than mine in the health optimisation programme, the problem is deeply concerning. This is not about health optimisation at all. I want to see the Minister step forward on a case of health optimisation. I absolutely agree that we have to address the obesity crisis in our country. Twenty five per cent of people are obese—that has an impact on the draw around diabetes and on other needs. I would welcome a health optimisation programme being in place in my CCG, but that is not what is happening. As I demonstrated to the Minister last week, patients in my constituency are being handed a letter that refers them to a website about some health programmes that may be far away—they are certainly not in our city because the local authority has cut them, such as the health walks. Therefore, individuals themselves have no choice about how to lose weight.

Looking at the issue of losing weight or smoking, I know as a clinician—as a former physiotherapist—those individuals need to be taken by the hand and walked through that journey, looking at all the markers around either their weight or their relationship with smoking. In the case of smoking, people need help to deal with an addiction. In the case of obesity or a high BMI, those issues need to be addressed.

I would welcome a health optimisation programme because that means that people will have a better life and they will probably not have the wear and tear on

[Rachael Maskell]

their joints. I welcome early intervention. We need to see that right through our school system, which is why I am worried about the massive fall in the number of health visitors, who could make those interventions at any early stage—as could school nurses, who have virtually disappeared—to enable people to have better, healthier lifestyles. I am particularly disappointed that the local authority withdrew the money from the NHS Health Checks, which enabled people to get their lives back on course from the age of 40 and have a healthier existence.

We fail people right through the system. At the point of crisis when they are in pain and needing surgical intervention, the system says to them, "No, you can't access healthcare because of your behaviour over the years." We have let people drift into that position. It is a completely failed system, which is causing individuals to be denied the surgery that they need. There is the complete nonsense of the amount of weight that people have to lose. People are told they have to lose 10%, but for somebody who is morbidly obese, 10% may take them down to the weight of somebody who is obese and who has to lose 10%. It is not a measure of a weight or a BMI figure at all. That is complete nonsense. Any clinician will absolutely recognise that this is a completely failed system. Therefore, I urge the Minister to make an intervention with the CCGs and to set the standards and the bar to enable clinicians to make the right decisions.

We had a discussion with our CCG in York and with the Minister about the programme. Obviously, we addressed the inadequacy of the healthcare optimisation programme, but we also talked about particular groups of patients who are denied treatment. Some people are on drug therapy that causes them to gain weight and are being denied the surgery they need. I gave examples of people with polycystitis, which has a particular impact on women, who are denied fertility treatment and the free surgery that would enable them to receive that treatment, because their condition is causing them to put on weight. That shows that the programme is discriminatory not only on grounds of economic status, but against women.

We have to look at the issue in the round. What we are trying to achieve? If we are trying to improve people's health, let us put in the measures to achieve that, but let us ultimately move to a place where the right people in the system are making the decisions. Surgeons will not proceed with or recommend surgery if it puts someone's life at risk. They know those parameters. That is what they are trained for, and they need to assess each patient in turn. I have had patients who have needed only an arthroscopy—an operation given under local, not general, anaesthetic—who have been denied surgery. We need to ensure that the surgeon makes the decision. No disrespect to GPs, but they are not specialists, and that should be a specialist's call. I therefore urge the Minister to move clinical decision making to the right place in the health service and to ensure that surgeons, who have a responsibility to their patients, are able to put things in place.

Finally, I call on the Minister to look at NHS finances, which we know really drive the equation. We have had a bit of an exchange about that previously, too. We cannot ignore the driving factor. The Vale of York CCG in my area has done everything—it has put in the most draconian rationing system there is—but its finances do not add up. We have to be cognisant of what has happened at King's College Hospital and the real concerns there, but CCGs up and down the country are wrestling with their finances. Public health is being cut massively by local authorities as they become risk averse, trusts themselves are in a desperate state as they gear up for a winter crisis, and the social care system is not working. We have real financial pressure.

In York, we have a capped expenditure process that limits CCGs' choices. We need to be able to release the money to address the need. The NHS is not being fed the money it needs, and it is therefore in crisis. We cannot keep saying that it has to do more and there has been personal failure. This is becoming a national crisis, which is deeply concerning because, as my hon. Friend the Member for Dewsbury said, lives are at risk as a result. We cannot go to that place.

This is about funding. It was always going to be about funding. I remember having an exchange with Andrew Lansley about the funding formula back in 2011, when he was introducing the Health and Social Care Bill and I was head of health at Unite, to highlight this risk. I therefore feel it on my conscience. I raised these very concerns about the failed funding formula and the way that finances in the NHS work against each other rather than together. That is what creates these issues, so we can avoid them not only by ensuring that there is enough money in the system, but by ensuring that the relationship is right and the funding formula works in the right way.

In my exchange last week with the Minister, we talked about individuals in the system being able to put their hand up, in the light of the massive inequality they face and the big no on money, and say, "By the way, can I have an individual funding request? I don't like the decision that's been made, so I'm going to challenge what my doctor"—let us face it, doctors have stature in society—"has said and say, 'Actually, I want to have an individual funding request.'" Making that point to a GP is a massive step, and it shifts the risk in a system that is there to care for people on to the individual patient—the smallest person in the whole health system. Patients have to say, against the weight of the system, "You got it wrong over my healthcare, and I want you to review that and put the money in," when there is no money in the pot. That is a complete nonsense of the process. We therefore need to shift the debate back to putting the right funding into the NHS so that patients are not discriminated against and clinicians can make the choices they are trained to make.

4.53 pm

Justin Madders (Ellesmere Port and Neston) (Lab): It is a pleasure to serve under your chairmanship, Mr Hollobone. I pay tribute to my hon. Friend the Member for Dewsbury (Paula Sherriff), who has been an assiduous campaigner on health issues since her election to this place. She has fought NHS downgrades in her area and, as a former member of the Select Committee on Health, forensically scrutinised the Government's health policies. She has rightly gained a colossal reputation across the House for her committed campaigning. Today, she has turned her attention to another extremely important issue, which, as we heard,

affects not only her constituents but millions of people up and down the country, and made a typically strong case.

My hon. Friend is right to categorise this as a dangerous time. Financial priorities are taking precedence over clinical judgments. Her CCG has been candid about the health optimisation programme being one of 21 cost-cutting measures that it is required to introduce. She highlighted the absurdity of that policy with the example of two patients who would be treated at the same hospital but live 9 miles apart: apparently, one would be entitled to surgery and the other would not. She is absolutely right that the decision about whether to operate should always be made by the consulting surgeon. I know that some people in the Government do not have a great deal of time for expert opinion, but that is a clear example of something on which there ought to be unanimity about the way ahead.

My hon. Friend gave examples of the questions that the CCG asked during the consultation on the health optimisation programme. As she said, nowhere was there a question about that very policy. As my hon. Friend the Member for York Central (Rachael Maskell) said, denying surgery is a draconian measure and an important matter. It was a real abdication of responsibility by the CCG not to ask that specific question but to couch it in general terms. What can the Minister do to ensure that the standard of consultation by CCGs is such that we can be assured that the resulting decisions are robust and supported by the public? What is the Government's view on the consultation standard that is currently used throughout the country?

My hon. Friend the Member for York Central also said that the public and patients are being failed, and highlighted the fact that other CCGs use a different BMI level. Indeed, my CCG uses a different one again, which highlights the totally arbitrary nature of these policies. She was absolutely right to say that people need help to stop smoking and lose weight. Those are not easy things to do. Sadly, public health cuts have made assistance much more limited. She highlighted well how losing 10% of body weight can mean entirely different things to different people, depending on what their weight is to start with; how the system fails people by not supporting them to make healthy choices; and how people are failed again when it comes to referral. She also illustrated well how the capped expenditure process in her area undermines the very basis of the NHS. I totally agree that it is time for the Minister to step up to the plate and challenge the many inconsistencies that we have heard about.

The proponents of this scheme can dress it up however they like, but we should be very clear about what it is: rationing of treatment for financial reasons—no more, no less. As we know, we have a growing population with longer life expectancy, and medical advances continue. Those are of course welcome developments, but they increase demand across the board and in this area led to a 27.5% increase in finished admissions between 2006-07 and 2016-17. The NHS has made enormous efficiency improvements to cope with that demand at a time of financial restraint. I am sure that the Minister agrees and will join me in paying tribute to the hard work of NHS staff, who made those efficiency improvements possible. However, it is clear that we have reached the limit of what can be achieved through efficiency alone—in fact, we are now moving well beyond that point.

As my hon. Friend the Member for Dewsbury said, just this week Lord Kerslake resigned as chair of King's College Hospital NHS Foundation Trust because, he said, the NHS is under-resourced and we "desperately need…a rethink" amid unrealistic demands for savings—the kind of unrealistic demands that lead to the nonsensical and counterproductive policies we have heard about. In the aftermath of the Budget, the national medical director, Sir Bruce Keogh, said that the failure to close the funding gap would

"force a debate about what the public can and can't expect from the NHS."

While that was an extraordinary comment for a public servant to make, it is also something of an understatement, as it is clear to everyone—we have heard it today—that CCGs are already debating those issues and deciding what treatments should be available. So far, however, the Government have refused to acknowledge the debate or even engage with it.

I will give some further examples of where rationing is already happening. In February this year, the CCG in West Kent implemented a policy to suspend all elective surgery until the end of the financial year in an attempt to save £3.2 million. More recently, Cambridgeshire and Peterborough CCG proposed a new policy requiring patients to wait a minimum of 12 weeks for surgery. While that decision was later reversed, it is a worrying example of the kind of policy we may see spreading across the country as the financial situation of the NHS continues to deteriorate. It is not just in surgery where such rationing applies: earlier this year, I responded to a debate in Westminster Hall on infertility treatment, and it was revealed that of 209 CCGs in England, just four follow in full the National Institute for Health and Care Excellence's guidelines on IVF treatment.

The individual funding request process, once reserved for rare conditions, is routinely applied by CCGs for a range of treatments. In some areas, including east Berkshire, routine hip and knee replacements are now being considered only if an individual funding request is made. Analysis by *The BMJ* found that the number of individual funding requests has increased by 47% in the past four years. As my hon. Friend the Member for York Central said, that shifts the burden on to the patient to prove that they need treatment, which is not what the NHS is there for. The Minister may well say that these are matters for individual CCGs, but there has to come a point where the Government must take responsibility and accept that the rationing of treatments taking place on their watch can be traced back to central Government funding decisions.

To turn to the matter at hand in Kirklees, when responding to these debates on behalf of the Opposition I have never failed to be impressed by the euphemistic names for schemes that no doubt are dreamed up by handsomely paid consultants but actually limit patient access. I have to say that the use of the term "health optimisation programme" to describe a system that could delay treatments for a year, leaving patients in chronic pain, is well placed to win my 2017 award for worst use of NHS management-speak. In Kirklees, as we have heard, about one in four people will be affected by the new restrictions based on weight, while 14% of the population are smokers. As the Royal College of Surgeons has pointed out, while obesity leads to poorer health outcomes, its relationship with post-operative success is less clear, and there is a lack of evidence that

[Justin Madders]

rapid weight loss before surgery makes much difference. It goes on to point out that there is evidence of a lower risk of post-operative cardiac and respiratory complications among obese patients.

It is clear that this policy, which will leave patients in unnecessary pain and discomfort for a prolonged period, is not motivated by medical considerations or necessity. Indeed, in many cases, patients are actually prevented from losing weight effectively as a result of the debilitating condition that they are seeking treatment to correct in the first place. Given that that goes against NICE guidance, will the Minister explain why CCGs are being permitted to pursue a course of action that causes so much discomfort and has no clear clinical benefit? As my hon. Friend said, we all want levels of smoking and obesity to be reduced, but leaving people in excruciating pain for months on end is simply not the right way to do it. If the Minister disagrees, I ask him to point out even one piece of evidence that suggests that denying access to surgery helps patients to improve their behaviour.

We all know that the best way to see sustained improvements in smoking cessation and obesity reduction is though well funded, consistent public health policies, which is why it is very disappointing that the Government chose to cut significant funds from public health budgets, a move that the King's Fund described as

"the falsest of false economies."

In 2015, Kirklees lost £1.6 million of public health funding, which could have been used to tackle the issues we have been discussing in a much more positive way.

Concern has also been expressed about the use of BMI as a measure. As we have heard, it is a particularly crude and unsophisticated way of estimating excess body fat by simply comparing weight and height. We gave the example of a professional rugby league player, I believe, who has a BMI of over 30. It is clear to anyone that if my BMI were to be in any way elevated, that would be as a result of body-building rather than any consumption of alcohol. As the Minister will know—I say this with the greatest of respect to him—there are people far healthier than either of us who happen to have a higher BMI. Will he therefore advise whether the Government support the use of such a crude measure to determine whether someone is allowed to undergo surgery?

Of all the inequities of this scheme I have referred to, the greatest is the fact that it applies to children aged just 5 and over. Is the Minister really prepared to stand by while children in primary school, who have no say over their own diet, are being left in pain while they wait for operations, or does he agree that they would be infinitely more likely to improve their fitness if they were not suffering from a medical condition in the first place?

Just as public health cuts are a false economy, as my hon. Friend the Member for Dewsbury said, delaying treatment will cost far more than it saves in the long term. There is a clear risk of patients developing complications if their treatment is delayed. A National Audit Office report on the costs of clinical negligence highlighted that 39% of claims are related to failures or delays in diagnosis or treatment of a condition, and it stated that that is likely to

"increase if waiting times are longer"

and treatment is arbitrarily rationed. I know the Government are committed to reducing the cost of clinical negligence in the NHS, but this policy seems to run counter to such intentions.

These episodes of localised rationing are becoming far too commonplace and creating a postcode lottery for patients. It is a lottery that patients did not ask to enter and one that leaves them suffering in pain. If we are truly to have a national health service, I hope that the Minister will reflect on what has been said today and take meaningful steps to end this unnecessary, unfair and counterproductive rationing of treatments.

5.6 pm

The Minister of State, Department of Health (Mr Philip Dunne): It is a pleasure, as always, to serve under your chairmanship, Mr Hollobone. I am conscious that there is the possibility of a vote coming rather earlier than we had anticipated; in which case, I will try to ensure I do not use up all the available time. I congratulate the hon. Member for Dewsbury (Paula Sherriff)—Dewsbury, Mirfield, Denby Dale and Kirkburton, but I will use Dewsbury for shorthand—on securing the debate and securing the support of the hon. Member for York Central (Rachael Maskell), who made a compelling case today. She referred to our recent meetings on this subject and previous debates on it in the Chamber, demonstrating her clear commitment to the cause.

It is no secret that the NHS faces significant challenges. All the Opposition Members who spoke referred to some of the financial pressures currently acknowledged as affecting the NHS. However, I do not think they quite recognised that the NHS's own five year forward view identified some significant challenges that need to be addressed in relation to the way in which the nation supports the healthcare of the population as a whole. Throwing money at it inexorably is not always the right solution. Some difficult choices have to be made about the way in which the public lead their lives. What we can do, through a combination of public health support, advice and education, to encourage the public to lead healthier lives is an important responsibility of Government. It is important for individuals to help to ensure that they lead long, independent lives in as healthy a condition as possible.

Rachael Maskell: The five year forward view was put in place long after people established lifestyles either of being overweight or of smoking. To penalise them after the event was not the intention of the five year forward view. That strategy is about improving people's health, whereas this programme is about causing health to deteriorate.

Mr Dunne: I do not accept that. It is important that we use all the tools at our disposal to encourage the public to lead healthy lives where possible. These measures form part of the suite of measures that are necessary to bring that about.

The Government have backed the five year forward view. Opposition Members raised the issue of finances. We have committed to a real-terms increase in funding through the spending review period. Most recently, in the Budget only last month, we committed an additional £2.8 billion on top of the £8 billion real-terms increase by 2020. We are providing significant extra resource,

but we recognise that different areas of the country will face different challenges and so will develop different approaches to how they use their resources most effectively in patients' interests. That will inevitably involve making difficult decisions. It is right that we trust local NHS organisations, clinically led, to make those decisions, rather than second-guessing them centrally.

Having said that, we have set certain expectations of the system, one of which is that blanket bans on treatments are completely unacceptable and incompatible with the NHS constitution. That is why I refute the challenge from Opposition Members to say whether or not we are imposing rationing on the NHS. The local management responsible for the NHS in their areas have to respect the constitution and should not introduce blanket bans, but they do have to look at ways to provide care for their populations in a manner that lives within the budgets they have been provided with.

Paula Sherriff: I have listened to the Minister carefully. Can he explain why he feels it is acceptable that someone in Wakefield could have surgery, while someone nine miles away in Dewsbury could not? They might both be smokers, and the surgery would be carried out by the same surgeon, probably in the same hospital. Are we not in danger of going into a very big postcode lottery once again?

Mr Dunne: The hon. Lady made that point in her remarks, and I will try to address it. She can pick me up on that again.

Rachael Maskell: To put this into the context of how it is working in reality, patients who do not meet the thresholds are automatically put through a system, and therefore it is completely in breach of the NHS constitution. There is no individual input about the clinical needs of a patient.

Mr Dunne: I will come on to that. We are talking primarily about what is happening in North Kirklees and Greater Huddersfield CCG areas, which have not yet implemented this policy. I will explain why I do not think that that should be the case.

On the healthcare optimisation plan, I take the gentle chiding from the hon. Member for Ellesmere Port and Neston (Justin Madders) about the way in which the NHS describes proposals. I have some sympathy with what he says about the way in which language is used, but this is a plan to encourage greater public health among the population of North Kirklees and Greater Huddersfield CCG areas, for which they are responsible. I talked to the CCGs in preparation for the debate and was advised that they do not see this as a blanket ban on treatment. I have emphasised to them that they should not do so and that there should not be a blanket ban on treatment.

I will describe the proposals, as I understand them. They have been developed by the CCGs since autumn 2016, and the objective is that patients who are overweight with a body mass index of 30 or above will have 12 months to lose at least 10% of their overall weight or to reduce their BMI to less than 30, while patients who smoke will be encouraged to take up to six months to quit smoking before undergoing routine surgery. Those who quit smoking for four weeks or achieve their target weight loss will be able to be referred for surgery under the policy.

The development of the plan coincided with the UK's childhood obesity strategy and the proposed introduction of the soft drinks industry levy, reflecting the Government's commitment to tackling the major public health problems affecting large sections of society. The hon. Member for Dewsbury and the hon. Member for York Central recognised the need to address the obesity crisis in this country. I am grateful for their support and that of the Opposition spokesman, the hon. Member for Ellesmere Port and Neston. I think we are united in recognising that something has to be done about this. I hope they support the proposals that the Government have made for the obesity strategy and the considerable progress we have made in reducing smoking since 2010. Hon. Members have made the point that the policy should not be at the expense of treatment if treatment is urgent or, if there is no treatment, it might lead to degradation of the health condition of the patient subject to the policy.

Paula Sherriff: I thank the Minister for his generosity in giving way. Does he agree that the decision must be made by a surgeon? That is so important, because they are highly trained and are surely the ones who can come to a decision on whether the patient can wait.

Mr Dunne: I will come on to that. The short answer is that I agree that the relevant clinicians should make those decisions.

Going back to where the CCGs are in this process, as I said earlier, they have not yet introduced the proposal. They have been working with the local population and with Healthwatch Kirklees, and have held a number of engagement events with local authorities and interested stakeholders to try to understand the reaction of those parties to the proposal. An engagement event was conducted in March and April of this year, and one with Kirklees Council in August and September of this year.

The CCGs have listened and responded to some of the points made. They have made several changes to their original proposals, including exempting children from the programme. They also recognise the limitations—amusingly identified by hon. Members in their contributions—of using BMI as a measure of body weight. Therefore, for example, people with high muscle mass should be excluded from the BMI calculation for the reasons that were well explained earlier in the debate.

The CCGs are including safeguards in the proposals, and they intend that, in exceptional circumstances, normal individual funding request processes will continue to apply. Hon. Members have criticised that as imposing an undue obligation on the individual to seek that route to secure treatment. That is effectively an appeal mechanism that applies across the NHS and is a well-worn and well-understood path for clinicians to support individual funding requests for patients where needed, which we should continue.

Both the hon. Member for Dewsbury and the hon. Member for York Central used the expression "lives at risk". I would gently say that there is absolutely no intention that policies such as this should lead to lives being at risk. They are about trying to put individuals in a position where their own circumstances would lead to

[Mr Dunne]

better outcomes from the proposed surgery. The hon. Ladies have called for evidence supporting the proposition —it was raised by the hon. Member for York Central when we met at the end of last month. I have asked for that evidence. A number of research papers support the propositions made by the CCG, in particular on the question whether obesity at the time of surgery is associated with a wide range of problems. Sustaining weight loss is the key. Rapid weight loss followed by rapid weight gain clearly do not help the patient, but the evidence from the research papers provided to me is that maintained weight loss or cessation of smoking undoubtedly and clearly have clinical benefits for the patient. There is evidence to support that.

I will come back to the point raised earlier on by the hon. Member for Dewsbury and the hon. Member for York Central, but I absolutely recognise that the clinician primarily responsible for the care, whether that is the GP or the secondary clinician, should have discretion to ensure that a referral is made, should a non-referral of a patient or a delayed procedure outweigh any benefits from a period of improving health and reducing risk factors prior to a routine operation. We will encourage the CCGs to ensure that that is in their final proposals, once those are made.

Justin Madders: The Minister says he will encourage CCGs to listen to clinical advice when making referrals. Is there any mechanism by which he will actually ensure that that happens?

Mr Dunne: As the hon. Gentleman knows, CCGs are subject to appraisal and are accountable to NHS England, which is accountable to Ministers. It is not for Ministers to direct individual CCGs as to how they should enact their policies, but there is a route through which we can provide some encouragement to NHS England to ensure that these policies reflect its national position. That is what we will do.

On where the process is, in October the two CCGs presented details of the proposed plans to Kirklees Council's health and social care scrutiny committee. The committee requested that the CCGs undertake a further six weeks of engagements, especially with hard-to-reach communities in the area of the hon. Member for Dewsbury. The CCGs have assured me that they are committed to that further engagement with the local community to ensure that the plan is fit for purpose, so there is a continuing opportunity to reflect on the revised iteration of the proposals. I am also advised that the CCGs have not yet made firm decisions on the plans. Instead, as a result of the engagement with local stakeholders, they are considering four options, and variations on the four options, for implementing the proposed plan, including not proceeding with the programme, which remains on the table.

Those options include: first, a phased approach, beginning with applying the programme initially only to patients who smoke and subsequently rolling it out further to obese patients if appropriate; secondly, only implementing the plan for smokers; thirdly, introducing health optimisation periods across clinical thresholds and pathways, in line with NICE guidance; or fourthly, moving away from implementation of the plan as previously defined and focusing on a strengthened education campaign to reinforce the benefits to patients of stopping smoking and losing weight. Those options remain on the table and there will be a further period of engagement. A decision on which option will be taken forward is due to be made by the CCGs in January, and further engagement on the implementation of the recommended approach will then take place later in the new year.

I said earlier that the plan is not a blanket ban on treatment. Instead, the intention is to encourage patients who are obese or who smoke to lose weight and/or quit smoking. There is evidence that that will have benefits, in terms of both surgical outcomes, as I have said, as well as reduced risk for general medical conditions, and there are clearly also benefits to patients' general health in the long term. Hon. Members can be assured that the CCGs are providing support to the patients on weight loss and smoking cessation, and have agreed to invest £133,000 a year in such services to account for any health optimisation-related increase in uptake.

The hon. Member for Dewsbury asked how we will assure that the plan is in accordance with national guidelines. As she would expect, NHS England has been closely reviewing this and similar proposals where they have been made to ensure that there is robust supporting clinical evidence and appropriate safeguards. The Government expect NHS England to ensure that the responsible CCG is not breaching its statutory responsibility to provide services that meet the needs of the local population. I can confirm to hon. Members that NHS England has had ongoing discussions with both CCGs about the health optimisation plan and will continue to do so to ensure that it works in the best interest of patients. That is the right approach, in terms of both protecting patients and both encouraging the population to put themselves in a condition to maximise the benefits from surgical procedures, without allowing CCGs to introduce an inappropriate blanket ban.

NHS England carries out regular assurance of CCGs and holds them to account through the CCG improvement and assessment framework to ensure that they are fulfilling their statutory requirements, and NHS England can and will intervene if a CCG is failing to discharge its key responsibilities. NHS England's regional teams also have regular discussions with CCGs about their commissioning activities and plans.

It is important in a debate like this, in which there are allegations of there being a postcode lottery, that we recognise that it is down to clinicians at a local level, through their CCG bodies, to make decisions that affect their local population, rather than, as has happened in the past, central diktat from Whitehall. Those may lead to perverse consequences and a less relevant healthcare capacity and treatments for patients on the ground.

Rachael Maskell: The Minister is being very generous with his time. Is it not important in a national health service that we use the very best clinical evidence on how to produce the best outcomes for all patients? Falsely drawn boundaries should not have any relevance to the kind of treatment people receive.

Mr Dunne: The hon. Lady will recognise that there are different health challenges in different areas, reflecting patients' differing needs. Encouraging the public to stop smoking and to reduce their weight is, as she acknowledged, an ambition that is shared by Members across the House and across clinical leads.

Rachael Maskell: Will the Minister give way?

Mr Dunne: I will not let the hon. Lady intervene again because, amazingly, I am about to run out of time, despite what I said at the beginning. I have taken a lot of interventions.

I conclude by assuring hon. Members that we are paying close attention to what is happening in Kirklees and Greater Huddersfield, and York Central. Other areas of the country may be considering similar proposals, and we need to ensure that it is done in a responsible manner, whereby clinicians stay at the heart of making referrals where appropriate and retain that discretion. We will not get to the situation that the hon. Member for Dewsbury described in her opening remarks, in which she said that people's lives will be put at risk by policies such as this. That is not the case.

5.27 pm

Paula Sherriff: I thank the Minister for his considered response. Like the vast majority of MPs in the House from all parties, I care deeply about the NHS. However, I am getting slightly fed up with the platitudes that we hear day in, day out from the Government regarding their putting extra funding in. The NHS is in crisis, and I say that as someone who worked in the health service for nearly 13 years immediately before becoming an MP. I hear it from ex-colleagues of different political persuasions nearly every single day.

I maintain that the concept of the health optimisation plan in Kirklees, and undoubtedly those elsewhere, is deeply flawed. I plead with the Minister to use his influence to engage with the CCGs and to encourage them to go with option 4. I think we all agree that stopping smoking and losing weight is a good thing—my goodness, I could follow some of that advice—but not at the expense of people being in pain and potentially affecting their mental health, or of having a postcode lottery. I discussed the Wakefield-Dewsbury case with the Minister. That is happening, and it will happen because of the false borders to which my hon. Friend the Member for York Central (Rachael Maskell) rightly alluded.

My mum suffers from severe rheumatoid arthritis and has had it since childhood. She is 73 on Friday. A few years ago she started taking a drug that gives her a quality of life that she never had—she started using it as a guinea pig and has continued to use it. It used to take her hours every day to open her hand. She was in so much pain. I once found her at the top of the stairs and she could not go down them. She was crying.

She said to me on the phone one day that she is terrified that the Government will stop her receiving those drugs, because they are not cheap. I told her not to be silly. She knows that her quality of life would severely deteriorate once again if they did, and that she would probably be in a wheelchair. I am not sure I could say that to her now, because this plan is rationing, plain and simple. I cannot have that conversation and tell her that the Government will not stop her receiving the drugs because they are expensive.

I want the Minister think about that in the wider context. She is a 73-year-old woman. Is her life, and those of all the people affected, worth less than ours? We would not stand for our healthcare being rationed. I certainly would not.

5.30 pm

Motion lapsed, and sitting adjourned without Question put (Standing Order No. 10(14)).

Written Statements

Tuesday 12 December 2017

DEFENCE

Afghanistan (Locally Employed Staff)

The Minister for the Armed Forces (Mark Lancaster): In June 2013, the Government decided that they would draw down employment of their Locally Employed Staff in Afghanistan by the end of 2017 and put policies in place to support those affected. I am responsible for overseeing and assuring the delivery of these policies on behalf of the interested Government Departments.

In terms of the implementation of these policies, the Ministry of Defence will have made the last of its local staff redundant by the end of the year, allowing them to access one of the three generous packages under our Ex-Gratia Redundancy scheme: these comprise financial support for 18 months, training and financial support for five years, or, for those in eligible roles, relocation to the UK.

So far, over 800 former staff have benefited from one of our redundancy options. Under the training offer some of our local staff are studying to be doctors or lawyers, completing their high school education, or improving their English language skills. In some cases, former staff members have chosen to gift their training to a family member, which has in many cases provided wives and daughters with the opportunity for further education or upskilling. These individuals will be better placed to play their part in working for a brighter future for their country.

The scheme has relocated more than 385 former staff and their families to the UK, and we expect around another 60 families to relocate over the next year or so. Of the 385, 12 individuals received Ex-Gratia compensation payments for injuries they sustained while working with UK forces. These were paid before they had decided to relocate to the UK and, some months ago, we initiated work to review the payments to adjust them for the different economic conditions of life in the UK. These were extremely brave people who worked alongside our soldiers on patrol, and who in some cases suffered profoundly life-changing injuries as a result of improvised explosive devices or small arms fire. The UK Government recognise that they have a special debt of gratitude to these individuals and we aim to complete this review by the spring of next year, giving priority to the more severely disabled cases.

Additionally, our Intimidation Policy continues to support all former staff who experience intimidation within Afghanistan as a result of their employment with the UK. This policy is delivered by an expert team based in Kabul, including a member of either the Home Office Constabulary or MOD Police to investigate the claims. This dedicated team has now assisted over 400 staff by providing bespoke security advice and, in over 30 cases, funding relocations to safe areas within Afghanistan. The level of intimidation faced has not so far been such that an individual has had to be relocated to the UK in order to ensure their safety. However, the changing security position in Afghanistan is kept under careful review.

The Government remain confident that the UK's arrangements for addressing intimidation concerns meet our commitment to protect our former locally employed staff and we have taken a number of steps to assure these arrangements. Notably, I chair a cross-Government Locally Employed Civilian Assurance Committee. This plays a valuable role in scrutinising the application of the Intimidation Policy and ensuring that it is effectively administered and that Afghan staff who feel threatened due to their employment by the UK are properly supported. Members include peers from the House of Lords, a suitably experienced police detective, and a former local staff member who provides invaluable insight and advice.

More recently, we have also welcomed the former Chief of Defence Staff, Lord Stirrup, and the Bishop of Colchester into our ranks. The Committee has met five times, most recently looking at the line between what justifies relocation within Afghanistan and to the UK, and at whether our Intimidation Investigation Unit makes a reasonable assessment of the danger to an individual when the intimidation concern is first raised with the Unit. The 14 cases that have been reviewed by the Committee to date demonstrate that the intimidation policy was effectively applied on these occasions. We recognise that this is a relatively small sample and will continue to review cases until we are confident that we have reasonable evidence that the policy is being properly applied. The Department has accepted a number of areas where arrangements need to be fine-tuned and has taken action accordingly. The Committee has also kept under review the security situation in Afghanistan as it relates to the risk of intimidation and the viability of mitigation measures. No issues have so far been raised in this respect.

As an additional layer of assurance, a barrister from outside the Department, and more recently a member of the Government Legal Service, have continued to conduct regular reviews of at least 20% of closed intimidation cases to ensure that the decisions are robust. The most recent review took place in November this year and concluded that the decisions taken by the investigation unit are fair and appropriate.

It is the Government's belief that our Ex-Gratia Redundancy scheme and Intimidation Policy remain fit for purpose and properly meet our responsibilities to men and women who played such an important part in our efforts to bring peace and security to Afghanistan.

[HCWS339]

DIGITAL, CULTURE, MEDIA AND SPORT

Telecoms, Transport and Energy Council

The Secretary of State for Digital, Culture, Media and Sport (Karen Bradley): The Telecommunications, Transport and Energy (TTE) Council took place in Brussels on 4 and 5 December 2017. The UK's deputy permanent representative to the EU represented the interests of the UK at the telecommunications session of this Council, which took place on 4 December.

Telecoms

The member states unanimously agreed a general approach on the proposals laying down the renegotiated regulatory framework for the Body of European Regulators for Electronic Communications (BEREC). This was the only item put forward by the presidency for which a

formal agreement was required. A scrutiny waiver was secured from the European Scrutiny Committee (House of Commons), and the European Union Committee (House of Lords) had cleared this item from scrutiny ahead of the Council.

The main policy debate at the Council centred on the Commission's initiative on the free flow of data proposal. The Commission's aim is for this file to be completed by mid-2018, and there was significant support from most member states for work to be expedited, with the expectation that an informal mandate for trilogue discussions could be agreed at Coreper on 20 December.

The Council agreed a 5G spectrum roadmap, a non-binding document which sets out milestones for the release of spectrum necessary for enabling 5G technologies. The UK agreed with the proposed timetable.

The presidency also provided a progress update on the e-privacy regulation information on the progress of the European Electronic Communications Code (EECC).

Council conclusions were adopted on the review of the EU cybersecurity strategy and draft Council action plan for their implementation. The UK supported their adoption.

Other

The Council received information from the Bulgarian delegation, as the incoming presidency for the first half of 2018, setting out their work programme for the next six months. They highlighted a number of priorities for their presidency, aimed primarily at moving the digital single market agenda forward during 2018 including:

Proceeding with informal trilogue discussions with the European Parliament on the proposal for EECC;

Reaching political agreement on BEREC, advancing the discussions at this Council

Continue to progress both free flow of fata , e-privacy and cybersecurity.

The next Council is scheduled for 7-8 June 2018 with Telecommunications expected to take place on 8 June.

[HCWS341]

ENVIRONMENT, FOOD AND RURAL AFFAIRS

Animal Welfare

The Secretary of State for Environment, Food and Rural Affairs (Michael Gove): I am delighted to publish today a draft Animal Welfare (Sentencing and Recognition of Sentience) Bill which will reflect the principle of animal sentience in domestic law and increase maximum sentences for animal cruelty tenfold, from six months to five years in England and Wales.

This draft Bill will embed the principle that animals are sentient beings, capable of feeling pain and pleasure, more clearly than ever before in domestic law. There was never any question that our policies on animal welfare are driven by the fact that animals are sentient beings, and I am keen to reinforce this in legislation as we leave the EU.

The Government are committed to raising animal welfare standards, and to ensuring animals will not lose any recognitions or protections once we leave the EU. The draft Bill I am publishing makes our recognition of animal sentience clear. It contains an obligation, directed towards Government, to pay regard to the welfare needs of animals when formulating and implementing Government policy.

This provision does not apply to Ministers in the devolved Governments of Wales, Scotland and Northern Ireland. I look forward to working closely with my devolved colleagues and I will be exploring with them the best way forward on this important matter, including whether they wish to take a similar or different approach.

In addition we will not tolerate cruelty against animals and we will give the courts the tools they need to deal with abhorrent acts of animal cruelty. This draft Bill increases the maximum penalty for animal welfare offences in the Animal Welfare Act 2006 from six months to five years' imprisonment.

This applies to the most serious offences under the Act—causing unnecessary suffering, illegally mutilating an animal, illegally docking a dog's tail, illegal poisoning and encouraging an animal fight. My proposed increased maximum penalties will also apply to convictions relating to attacks on service animals, including guide dogs, police and military dogs. This provision will apply in England and Wales.

The draft Bill that I am publishing today is subject to a seven week consultation, ending on 31 January. It is part of a wider programme to deliver world-leading standards of animal welfare in the years ahead. We are making CCTV mandatory in slaughterhouses, banning plastic microbeads which harm marine life, and have set out proposals for a total ban on ivory sales which contribute to the poaching of elephants. This is the start of our ambition to set a global gold standard for animal welfare as we leave the EU.

[HCWS340]

HEALTH

Organ Donation: England

The Parliamentary Under-Secretary of State for Health (Jackie Doyle-Price): In October 2017, the Prime Minister announced the Government's intention to change the law on organ donation in England by introducing the principle of "opt-out consent", in a bid to save the lives of the 6,500 people currently waiting for an organ transplant.

Today the Government have launched a consultation to begin an open conversation about this change to opt-out organ donation, including how to encourage more conversations about personal decisions and what role families should have when their relative has consented to donate.

Currently, 80% of people say they would be willing to donate their organs but only 36% register to become an organ donor. Three people die every day in need of a suitable organ. Figures from NHS Blood and Transplant show that around 1,100 families in the UK decided not to allow organ donation because they were unsure, or did not know whether their relatives would have wanted to donate an organ or not. The Government's intention

is that changing the system to an opt-out model of consent will mean more viable organs become available for use in the NHS, potentially saving thousands of lives.

The consultation is open for the next three months, providing an opportunity for as many people as possible in England to give their views, including people from religious groups, patient groups, the clinical transplant community, and black, Asian and other minority communities.

It is important to ensure that moving to an opt-out system of consent will honour a person's decision on what happens to their body after death, and the consultation seeks views on how we can make sure this is the case.

The consultation also seeks views on a number of related issues, including ways in which it can be made easier for people to register their decision on organ and tissue donation. The consultation invites views on the potential impact proposals could have on certain groups who have protected characteristics in law such as disability, race, religion or belief. Questions are asked to help determine how family members should be involved in confirming decisions in future. The Government also propose a number of exclusions and safeguards to the general rule of consent under the proposed new system. This includes the position of children, people with limited mental capacity, the armed forces and temporary residents.

The consultation is available at: https://www.gov.uk/government/consultations/introducing-opt-out-consent-for-organ-and-tissue-donation-in-england. An impact assessment has been published alongside the consultation and can be accessed in the same place as the link above on www.gov.uk.

The outcome of the consultation will inform the Government's next steps and its proposals for legislation to bring the new system of consent into effect.

[HCWS338]

TRANSPORT

EU Transport Council

The Secretary of State for Transport (Chris Grayling): I attended the only formal Transport Council under the Estonian presidency (the presidency) in Brussels on Tuesday 5 December.

First, the Council noted the presidency's progress report, summarising discussions to date at official level, on phase one of the mobility package. Work has focused on proposals designed to improve the clarity and enforcement of the EU road transport market (the 'market pillar') and proposals on the application of social legislation in road transport (the 'social pillar'). I broadly supported the progress made, emphasised the UK's commitment to a constructive safety-first approach to updating the rules, but also registered concerns over the proposed extension of scope of part of the regulations to small vans.

Following this, the Council adopted three sets of Council conclusions: on progress in Trans-European Network-Transport (TEN-T) and Connecting Europe Facility (CEF), the Digitalisation of Transport, and the mid-term evaluation of Galileo, EGNOS and European GNSS agency.

Next, the presidency held a policy debate on the "road charging pillar" of the mobility package. The proposals to amend the existing directives on HGV road tolls and user charges ('Eurovignette') and the interoperability of electronic road toll systems ('EETS') set out rules for charging vehicles using the road (but do not mandate such charging) and promote better functioning of charging across national barriers. The UK broadly welcomed provisions on improving the functioning and enforcement of electronic road tolling systems. However, the UK said we were opposed to proposals to broaden the scope of EU charging rules to include cars, and had concerns about the proposed phasing-out of time-based road charging and measures mandating hypothecation of revenues from congestion charging.

Following this, the Council noted the presidency's progress report on official level discussions on safeguarding competition in air transport. The UK did not dispute the need for fair competition but urged caution on proposals for regulatory measures; it was important to avoid potential negative impacts on the liberalised aviation market, connectivity, consumers, and member states' bilateral aviation agreements with third countries.

Under Any Other Business, several items were discussed. Notably, Commissioner Bulc presented the Commission's recently published second phase of the mobility package, provided an update on the implementation of the extensive aviation strategy, alongside a communication on military mobility, and noted progress on rail passenger rights negotiations; Finland called for reconsideration of the summertime directive; Germany updated on the second high-level group on automated and connected cars; Poland drew attention to the 2018 international maritime days ; France promoted her proposed declaration at the upcoming "one planet" summit calling on the IMO to adopt an ambitious strategy for the decarbonisation of international shipping; and Bulgaria presented transport plans for her incoming presidency of the Council of the European Union.

[HCWS337]

Petition

Tuesday 12 December 2017

OBSERVATIONS

TRANSPORT

Changes to local Bus services in Torbay

The petition of users of the No.32 bus service in Torbay,

Declares that the change of service for the number 32 bus service between St Marychurch–Torbay Hospital/The Willows will have a detrimental impact on local residents, in particular, elderly residents.

The petitioners therefore request that the House of Commons urges Torbay Council to commit to re-instating the service route of the No.32 service for the sake of the local residents as soon as possible.

And the petitioners remain, etc.—*[Presented by Kevin Foster , Official Report,* 22 November 2017; Vol. 631, c. 1146.*]*

[P002083]

Observations from the Parliamentary Under-Secretary of State for Transport (Jesse Norman):

I recognise the importance of public transport for both the sustainability and independence of communities. Inadequate transport provision is a very real concern and can be a barrier to the prosperity of all.

Where there is not enough demand for a bus route to be commercially viable in its own right, all local authorities in England have powers to subsidise bus services which they consider socially necessary.

Decisions on subsidised bus services are a matter for individual English local authorities, in the light of their other spending priorities. We fully appreciate that local authorities are making difficult choices as a result of ongoing financial pressures.

The majority of public funding for local bus services is via block grant provided to local authorities in England from the Department for Communities and Local Government. However, my Department also provides around £40 million of Bus Service Operators Grant funding directly to English local authorities to help deliver bus services, of which Torbay Council receives around £24,000. Councils can use this money to support bus services in whatever way they see fit.

The Bus Services Act 2017 introduces a number of new tools to help local authorities improve local bus services in their area. Through partnership arrangements we have enabled local authorities and bus operators to work constructively to provide better services for passengers.

I strongly encourage local authorities and bus operators to work together, in consultation with local residents and businesses, to identify the right transport solutions that meet the economic and environmental challenges faced in the area and deliver the greatest benefits for the community.

Ministerial Correction

Tuesday 12 December 2017

NORTHERN IRELAND

Republic of Ireland Border

The following is an extract from Questions to the Secretary of State for Northern Ireland on Wednesday 15 November 2017.

Stephen Pound (Ealing North) (Lab): Has the Northern Ireland Office produced an analysis of the impact of Brexit on Northern Ireland, or contributed to the rumoured "58 articles"—the sectoral analyses that we know have been produced? Will the Secretary of State commit himself to publishing all such material, as his colleagues in the Department for Exiting the European Union have already so nobly done?

James Brokenshire: I am grateful to the hon. Gentleman for highlighting the sectoral work relating to 58 areas of activity, which deals with how trade is currently conducted with the EU and what the alternatives might be. I can say that Northern Ireland has contributed to the cross-Government work at an official level, and the hon. Gentleman will be well aware of the commitments that DExEU has made in relation to the publication of that ongoing work. *[Official Report, 15 November 2017, Vol. 631, c. 346.]*

Letter of correction from James Brokenshire.

An error has been identified in the response I gave to the hon. Member for Ealing North (Stephen Pound).

The correct response should have been:

James Brokenshire: I am grateful to the hon. Gentleman for highlighting the sectoral work relating to 58 areas of activity, which deals with how trade is currently conducted with the EU and what the alternatives might be. **The NIO contributes to a wide range of analysis on the impact of EU Exit, although the specific sectoral reports were produced by other Government Departments, co-ordinated by the Department for Exiting the EU.**

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