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Public Bill Committee

HEALTH AND CARE BILL

Twentieth Sitting

Thursday 28 October 2021

(Morning)

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Monday 1 November 2021

The Committee consisted of the following Members:

Chairs: † Mr Peter Bone, Julie Elliott, Steve McCabe, Mrs Sheryll Murray

† Argar, Edward *(Minister for Health)*
† Crosbie, Virginia *(Ynys Môn)* (Con)
† Davies, Gareth *(Grantham and Stamford)* (Con)
† Davies, Dr James *(Vale of Clwyd)* (Con)
† Double, Steve *(St Austell and Newquay)* (Con)
† Foy, Mary Kelly *(City of Durham)* (Lab)
† Gideon, Jo *(Stoke-on-Trent Central)* (Con)
† Higginbotham, Antony *(Burnley)* (Con)
† Madders, Justin *(Ellesmere Port and Neston)* (Lab)
† Norris, Alex *(Nottingham North)* (Lab/Co-op)
† Owen, Sarah *(Luton North)* (Lab)
† Robinson, Mary *(Cheadle)* (Con)
Skidmore, Chris *(Kingswood)* (Con)
† Smyth, Karin *(Bristol South)* (Lab)
Timpson, Edward *(Eddisbury)* (Con)
† Whitford, Dr Philippa *(Central Ayrshire)* (SNP)
Williams, Hywel *(Arfon)* (PC)

Huw Yardley, Sarah Ioannou, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 28 October 2021

[Mr Peter Bone *in the Chair*]

Health and Care Bill

11.30 am

The Chair: All the rules and regulations you have all heard four times this week still apply, so we will crack on.

New Clause 29

Health warnings on cigarettes and cigarette papers

"The Secretary of State may by regulations require tobacco manufacturers to print health warnings on individual cigarettes and cigarette rolling papers."

This new clause would give powers to the Secretary of State to require manufacturers to print health warnings on individual cigarettes.—(Mary Kelly Foy.)

Brought up, and read the First time.

Mary Kelly Foy (City of Durham) (Lab): I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss the following:

New clause 30—*Cigarette pack inserts*—

"The Secretary of State may by regulations require tobacco manufacturers to display a health information message on a leaflet inserted in cigarette packaging."

This new clause would give powers to the Secretary of State to require manufacturers to insert leaflets containing health information and information about smoking cessation services inside cigarette packaging.

New clause 31—*Packaging and labelling of nicotine products*—

"The Secretary of State may by regulations make provision about the retail packaging and labelling of electronic cigarettes and other novel nicotine products including requirements for health warnings and prohibition of branding elements attractive to children."

This new clause would give powers to the Secretary of State to prohibit branding on e-cigarette packaging which is appealing to children.

New clause 32—*Sale and distribution of nicotine products to children under the age of 18 years*—

"(1) The Secretary of State may by regulations prohibit the free distribution of nicotine products to those aged under 18 years, and prohibit the sale of all nicotine products to those under 18.

(2) Regulations under subsection (1) must include an exception for medicines or medical devices indicated for the treatment of persons aged under 18."

This new clause would give powers to the Secretary of State to prohibit the free distribution or sale of any consumer nicotine product to anyone under 18, while allowing the sale or distribution of nicotine replacement therapy licensed for use by under 18s.

New clause 33—*Flavoured tobacco products*—

"The Secretary of State may by regulations remove the limitation of the prohibition of flavours in cigarettes or tobacco products to "characterising" flavours, and extend the flavour prohibition to all tobacco products as well as smoking accessories including filter papers, filters and other products designed to flavour tobacco products."

This new clause would give powers to the Secretary of State to prohibit any flavouring in any tobacco product or smoking accessory.

New clause 34—*Tobacco supplies: statutory schemes*—

"(1) The Secretary of State may make a scheme (referred to in this section and section [Tobacco supplies: statutory schemes (supplementary)] as a statutory scheme) for one or more of the following purposes—

(a) regulating the prices which may be charged by any manufacturer or importer of tobacco products for the supply of any tobacco products,

(b) limiting the profits which may accrue to any manufacturer or importer in connection with the manufacture or supply of tobacco products, or

(c) providing for any manufacturer or importer of tobacco products to pay to the Secretary of State an amount calculated by reference to sales or estimated sales of those products (whether on the basis of net prices, average selling prices or otherwise).

(2) A statutory scheme may, in particular, make any provision mentioned in subsections (3) to (6).

(3) The scheme may provide for any amount representing sums charged by any manufacturer or importer to whom the scheme applies, in excess of the limits determined under the scheme, for tobacco products covered by the scheme to be paid by that person to the Secretary of State within a specified period.

(4) The scheme may provide for any amount representing the profits, in excess of the limits determined under the scheme, accruing to any manufacturer or importer to whom the scheme applies in connection with the manufacture or importation of tobacco products covered by the scheme to be paid by that person to the Secretary of State within a specified period.

(5) The scheme may provide for any amount payable in accordance with the scheme by any manufacturer or importer to whom the scheme applies to be paid to the Secretary of State within a specified period.

(6) The scheme may—

(a) prohibit any manufacturer or importer to whom the scheme applies from varying, without the approval of the Secretary of State, any price charged by him for the supply of any tobacco product covered by the scheme, and

(b) provide for any amount representing any variation in contravention of that prohibition in the sums charged by that person for that product to be paid to the Secretary of State within a specified period."

This new clause and NC35, NC36 and NC37 would enable the Secretary of State for Health and Social Care to regulate prices and profits of tobacco manufacturers and importers.

New clause 35—*Tobacco supplies: statutory schemes (supplementary)*—

"(1) The Secretary of State may make any provision the Secretary of State considers necessary or expedient for the purpose of enabling or facilitating—

(a) the introduction of a statutory scheme under section [Tobacco supplies: Statutory schemes], or

(b) the determination of the provision to be made in a proposed statutory scheme.

(2) The provision may, in particular, require any person to whom such a scheme may apply to—

(a) record and keep information,

(b) provide information to the Secretary of State in electronic form.

(3) The Secretary of State must—

(a) store electronically the information which is submitted in accordance with subsection (2);

(b) ensure that information submitted in accordance with this provision is made publicly available on a website, taking the need to protect trade secrets duly into account.

(4) Where the Secretary of State is preparing to make or vary a statutory scheme, the Secretary of State may make any provision the Secretary of State considers necessary or expedient for transitional or transitory purposes which could be made by such a scheme."

This new clause and NC34, NC36 and NC37 would enable the Secretary of State for Health and Social Care to regulate prices and profits of tobacco manufacturers and importers.

New clause 36—*Tobacco supplies: enforcement*—

"(1) Regulations may provide for a person who contravenes any provision of regulations or directions under section [Tobacco supplies: statutory schemes] to be liable to pay a penalty to the Secretary of State.

(2) The penalty may be—

(a) a single penalty not exceeding £5 million,

(b) a daily penalty not exceeding £500,000 for every day on which the contravention occurs or continues.

(3) Regulations may provide for any amount required to be paid to the Secretary of State by virtue of section [Tobacco supplies: statutory schemes] (4) or (6)(b) to be increased by an amount not exceeding 50 per cent.

(4) Regulations may provide for any amount payable to the Secretary of State by virtue of provision made under section [Tobacco supplies: statutory schemes] (3), (4), (5) or (6)(b) (including such an amount as increased under subsection (3)) to carry interest at a rate specified or referred to in the regulations.

(5) Provision may be made by regulations for conferring on manufacturers and importers a right of appeal against enforcement decisions taken in respect of them in pursuance of [Tobacco supplies: statutory schemes], [Tobacco supplies: statutory schemes (supplementary)] and this section.

(6) The provision which may be made by virtue of subsection (5) includes any provision which may be made by model provisions with respect to appeals under section 6 of the Deregulation and Contracting Out Act 1994 (c. 40), reading—

(a) the references in subsections (4) and (5) of that section to enforcement action as references to action taken to implement an enforcement decision,

(b) in subsection (5) of that section, the references to interested persons as references to any persons and the reference to any decision to take enforcement action as a reference to any enforcement decision.

(7) In subsections (5) and (6), 'enforcement decision' means a decision of the Secretary of State or any other person to—

(a) require a specific manufacturer or importer to provide information to him,

(b) limit, in respect of any specific manufacturer or importer, any price or profit,

(c) refuse to give approval to a price increase made by a specific manufacturer or importer,

(d) require a specific manufacturer or importer to pay any amount (including an amount by way of penalty) to the Secretary of State,

and in this subsection 'specific' means specified in the decision.

(8) A requirement or prohibition, or a limit, under section [Tobacco supplies: statutory schemes], may only be enforced under this section and may not be relied on in any proceedings other than proceedings under this section.

(9) Subsection (8) does not apply to any action by the Secretary of State to recover as a debt any amount required to be paid to the Secretary of State under section [Tobacco supplies: statutory schemes] or this section.

(10) The Secretary of State may by order increase (or further increase) either of the sums mentioned in subsection (2)."

This new clause and NC34, NC35 and NC37 would enable the Secretary of State for Health and Social Care to regulate prices and profits of tobacco manufacturers and importers.

New clause 37—*Tobacco supplies: controls: (supplementary)*—

"(1) Any power conferred on the Secretary of State by section [Tobacco supplies: statutory schemes] and [Tobacco supplies: statutory schemes (supplementary)] may be exercised by—

(a) making regulations, or

(b) giving directions to a specific manufacturer or importer.

(2) Regulations under subsection (1)(a) may confer power for the Secretary of State to give directions to a specific manufacturer or importer; and in this subsection 'specific' means specified in the direction concerned.

(3) In this section and section [Tobacco supplies: statutory schemes] and [Tobacco supplies: statutory schemes (supplementary)] and [Tobacco supplies: enforcement]—

'tobacco product' means a product that can be consumed and consists, even partly, of tobacco;

'manufacturer' means any person who manufactures tobacco products;

'importer' means any person who imports tobacco products into the UK with a view to the product being supplied for consumption in the United Kingdom or through the travel retail sector, and contravention of a provision includes a failure to comply with it."

This new clause and NC34, NC35 and NC36 would enable the Secretary of State for Health and Social Care to regulate prices and profits of tobacco manufacturers and importers.

New clause 38—*Age of sale of tobacco*—

"The Secretary of State may by regulations substitute the age of 21 for the age of 18 for the sale of tobacco and make consequential amendments to the Children and Young Persons Act 1933, the Children and Young Persons (Protection from Tobacco) Act 1991 and the Children and Families Act 2014."

This new clause would give powers to the Secretary of State to raise the age of sale for tobacco products to 21.

Mary Kelly Foy: The Government's prevention Green Paper, published in July 2019, included an ambition to make England smoke free by 2030. Admitting that bold action would be needed, the Government promised further proposals in order to finish the job. Two years on, and with less than nine years to go before 2030, we are nowhere near on track to achieve that ambition. Using Government data, projections by Cancer Research UK show that we will miss the target by seven years, and by double that for the poorest in society. Despite the promise of further action on tobacco, there are no measures to tackle smoking in the Bill. That is a major oversight, which my new clauses seek to address.

The new clauses are based on the recommendations included in the latest report from the all-party parliamentary group on smoking and health, of which I am the vice-chair. They set out a range of complementary measures to deliver the smoke free ambition, which will also significantly increase productivity and reduce pressure on the health and care system. Although the smoke-free 2030 ambition applies specifically to England, all parts of the UK have stated an ambition to end smoking, so I am pleased that members of the Committee from Wales and Scotland support the new clauses.

I will briefly run through the new clauses and why they are necessary additions to the Bill. New clause 29 would give the Secretary of State the power to require tobacco manufacturers to print health warnings on individual cigarettes and cigarette rolling papers. New clause 30 would allow the Secretary of State to require tobacco manufacturers to display a health information message on a leaflet inserted into cigarette packaging, which the Government promised to consider in the prevention Green Paper two years ago. Those are simple, uncontroversial and effective measures that would help deliver the Government's smoke-free 2030 ambition at minimal cost.

[Mary Kelly Foy]

New clauses 31 to 33 would allow the Secretary of State to close loopholes and regulations that allow tobacco and e-cigarette manufacturers to market their products to children and to undermine regulations that are designed to protect public health. New clause 31 would give powers to the Secretary of State to prohibit branding on e-cigarette packaging that appeals to children, such as branding that uses sweet names, cartoon characters and garish colours.

New clause 32 would give the Secretary of State powers to block a shocking loophole in the law that means that, although e-cigarettes cannot be sold to children under 18, they can be given out for free. There is no reason why we cannot seek to rectify that anomaly today. New clause 33 would give the Secretary of State powers to ban all flavouring and not just that defined as characterising. That term is subjective and ill-defined and has allowed tobacco manufacturers to drive a coach and horses through the legislation.

The Government were required by law to review the relevant tobacco regulations to check whether they are fit for purpose, and to publish a report in May 2021, which they have not done. It is time for them to address these egregious loopholes in the regulations, and the Bill is an ideal opportunity to do so. These new clauses are uncontroversial, and would be of clear benefit to child public health. I will therefore seek to divide the Committee on new clauses 31, 32 and possibly 33.

Following on from those new clauses, we must accept that if England is to be smoke free by 2030 we need to stop people starting smoking at the most susceptible age, when they are adolescents and young adults. There is a real and present danger that must be addressed: new figures from a large survey by University College London found a 25% surge in the number of young adults aged 18 to 34 in England who smoked during the first lockdown. New clause 38 would give the Secretary of State powers to raise the age of sale for tobacco products from 18 to 21. That regulatory measure would have the largest impact in reducing the prevalence of smoking among young adults, as demonstrated by what happened in the United States when the age of sale was increased to 21.

Finally, I want to address the issue of funding. The coronavirus pandemic has meant that the need for more investment in public health is greater than ever before. The Government promised to consider a US-style "polluter pays" levy on tobacco manufacturers in the 2019 prevention Green Paper. New clauses 34 to 37 would enable the Secretary of State to regulate prices and the profits of tobacco manufacturers and importers, which could provide funding not only for England, but for the devolved Administrations, with any excess allocated to other vital public health interventions.

I want to express my gratitude to my hon. Friends for supporting these new clauses. I hope the Government will engage with these proposals in a similarly constructive manner with regard to the forthcoming tobacco control plan, ensuring that public health is at the heart of any discussions around smoking and tobacco.

Dr Philippa Whitford (Central Ayrshire) (SNP): Obviously, smoking has increased during covid, particularly during the lockdowns, which is quite depressing after some of the progress made in recent decades. This array of new clauses tries to tackle the issue from different angles. New clauses 32 and 38 relate to the age at which someone can purchase, along with other point-of-sale policies. Those issues are all under devolved control, so I have not got involved in those. However, the policy decisions around manufacturing, flavourings, packaging and so on are all reserved, and all four nations of the UK would agree that the biggest single favour anyone can do for their own health is to give up smoking.

As older people and people who have smoked for many years sadly succumb to the diseases we know are caused by smoking, such as heart disease, stroke and cancer, it is incumbent on tobacco companies to recruit a new generation. That is what ornate packaging and childish flavourings are clearly aimed at doing, and they are therefore completely counter to the policies of the UK Government and the devolved Governments.

This is an opportunity to stake the point, move forward and take action to prevent the recruitment of young smokers into cigarette smoking, which will inevitably cost the NHS—indeed the four NHSs—more, as they deal with the health issues over a number of decades, than is raised by tobacco duty. The Government need to stop looking at what they earn from cigarettes and focus on minimising their use. That is the Government's stated policy, and these new clauses would take that forward.

Alex Norris (Nottingham North) (Lab/Co-op): It is a pleasure to resume proceedings with you in the Chair, Mr Bone. I commend my hon. Friend the Member for City of Durham for her new clauses and the powerful case she made for them, but also for her leadership in the all-party parliamentary group on smoking and health, alongside the hon. Member for Harrow East (Bob Blackman). I know it is a truly impactful APPG and I have always been grateful for my opportunities to go to its sessions to contribute or to listen, as I know Ministers have as well. Reducing smoking and being smoke free by 2030 is a major public health prize. It was a bit disappointing and surprising that there were no tobacco control elements on the face of the Bill, so it is right that we spend a little time trying to change that.

Successive Governments have rightly taken real pride in the reductions in smoking over the past 20 to 25 years. Those reductions have not happened by accident, but through concrete interventions that were sometimes controversial and often challenging at the time, such as the smoking ban, plain packaging and packet warnings—things that we soon afterwards realised were very impactful, and very much the right thing to do. Of course, as the hon. Member for Central Ayrshire says, we have to view this in the context of covid, and there has perhaps been a bit of backsliding on that progress, but that should drive us not to despair, but to redouble our efforts. I hope we can move things forward in the spirit that my hon. Friend the Member for City of Durham suggested.

We have to understand that the gains we have made in recent years come with a caveat. Most of the quitting has been done by people from better-off communities, and the benefits have largely accrued to those communities. We are now at the point where smoking accounts for 50% of health inequalities between the poorest and the best-off communities. If we really are serious about levelling up or whatever we want to call it, health is

surely a crucial part of that. We know that smoking accounts for half of that difference, so we really ought to be focusing on it.

Reducing smoking ought to be a major project for any Government, because poorer smokers are just as likely to want to quit as their better-off counterparts, and just as able to do so if they have access to good services. However, we have spent a decade cutting those services in general, but particularly in the poorest communities, so high-quality smoking cessation services—which are so effective—have withered on the vine in many of the places that need them the most.

I will now turn to the new clauses tabled by my hon. Friend the Member for City of Durham, beginning with new clause 29. About one in seven adults smokes. That is about 7 million people, and while health warnings have been displayed on smoking packages for well over a decade, there is evidence that the impact of warnings such as those wane over time. However, the dangers of smoking remain high—between 2016 and 2018, there were 1,167 deaths attributable to smoking in my city of Nottingham alone—so we need to build on the techniques that have worked, with new ones to refresh our understanding of the dangers of cigarettes to smokers.

There is evidence that dissuasive cigarettes can make smoking less attractive to younger people and non-smokers, and the inclusion of warnings on individual cigarettes, as proposed by new clause 29, is one key way of doing that. Such warnings are already being considered around the world: an in-depth study from France found that warnings on cigarettes increased negative health perceptions, reduced positive smoker image and the perceived pleasure of smoking, decreased the desire to start smoking, and increased the desire to quit. There are therefore signs that such a policy would be impactful.

New clause 30 deals with cigarette pack inserts. Inserting leaflets that contain health information and information about quitting is an effective and cheap way to target existing smokers and help them get support to quit. Those inserts are easy and cheap to implement and, moreover, while the reading of cigarette pack warnings decreases over time, the reading of inserts increases. In Canada, package inserts have been a legal requirement since 2000, and a survey of smokers in Canada found that between one quarter and one third of respondents had read pack inserts at least once in the prior month, and those intending to quit or having recently tried to do so were significantly more likely to have read them. Pack inserts will support and reinforce the impact of other measures that will require more significant investment campaigns to go with them, such as behaviour change campaigns and stop smoking services. They are a really good evidence-based, low-cost addition to such campaigns.

New clause 31 relates to the packaging and labelling of nicotine products. Over the decades, regulation has transformed traditional cigarette packaging, plastering it with warnings and preventing tobacco companies from selling a desirable image of smoking. However, regulations have not kept pace with the less traditional nicotine products, such as e-cigarettes and nicotine pouches. Tobacco companies are still able to sell e-cigarettes adorned with bright colours, cartoon characters and attractive images, as we have heard from my hon. Friend the Member for City of Durham and the hon. Member for Central Ayrshire, and I know that e-cigarette shops in my constituency offer vape liquids branded as vanilla ice cream, slushies and cookie dough, all of which appear targeted at young people, and children in particular.

I am enthusiastic about vaping—it still feels like that is an unfashionable thing to say, but I stand by it. I think vaping is a really good way to help people quit smoking and stay quit, and it is a really important part of a smoke-free 2030. However, it should be regulated properly to help make being smoke free a reality. Data shows that restrictions on the branding of e-cigarettes and refills reduce the appeal of vaping to young people, particularly children, while having little impact on adult smokers' interest in using these products to quit smoking, so, again, it is cost-free.

11.45 am

Dr Whitford: I assume from the hon. Gentleman's comments that he shares my concern that although vaping is considerably safer than traditional tobacco, as Public Health England reports on vaping show, vaping products still contain nicotine, which is a vascularly active substance. Therefore, we should still be concerned about non-smoking children being recruited on to vaping. We have no idea what decades of nicotine vaping will do to someone.

Alex Norris: I do share that view, particularly around children. Our preference would be for them to never start. There should not be packages with cartoons and child-friendly descriptors to develop a market among children. I think there would be a high level of consensus on that.

In that spirit, new clause 32 addresses an incredible loophole, which I cannot believe anybody thinks is a good idea. If the Minister is not going to accept new clause 32, I hope he will say when the issue will be resolved. The idea that you cannot sell e-cigarettes to children but that you can give them out as free samples to under-18s is quite hard to understand. It is time for us to get hold of this simple loophole, which goes against the spirit of the legislation, which is designed to protect children against nicotine addiction. I hope we can get some clarity, either because the Minister accepts the new clause or gives us a clear picture that we will see action very soon.

On new clause 33, about flavoured tobacco products, it again feels like the market is not acting in the spirit of the laws that have been passed. Flavoured tobacco is designed to make products more appealing, especially to younger people. In May 2020, we banned the sale of tobacco with a characterising flavour such as vanilla, spices and menthol. However, companies have adapted to this legal change with new innovations that skirt the law and provide smoking experiences that replicate flavoured tobacco. I can go to supermarket websites and find "green" branded cigarettes being sold, with many reviews stating how similar the flavour is to menthol cigarettes. I do not think that is in the spirit of the law.

In the year from May 2020, Japan Tobacco made over £91 million in profits from menthol brands. Clearly, the law has not worked as we want it to. Moreover, between January 2020 and 2021, a survey of smokers showed that the smoking of menthol cigarettes has not declined, despite the apparent ban, so I do not think the

[Alex Norris]

law is working. This new clause would do a good job of closing that legal loophole. If the Minister is not minded to accept it, I would be keen to know what the Government intend to do instead, because I cannot believe that they want laws that they passed, in possession of full facts, to be worked around in that way.

I will take new clauses 34 to 37 as a group, because they create the same thing: a tobacco control fund, paid for by manufacturers, combined with the regulation of tobacco companies' profits. As my hon. Friend the Member for City of Durham said, when the Government announced their smoke-free 2030 ambition, they promised to consider a US-style "polluter pays" levy on the manufacturers, and included an ultimatum for industry to make smoked tobacco obsolete by 2030. My hon. Friend's APPG has published a very strong option for how to do that. Ministers could lift and shift that very happily and get on with this. There are real benefits to that.

Action on Smoking and Health do some wonderful work, and I am grateful for its support in my work. It estimates that a comprehensive national, regional and local tobacco control programme—in many ways, we have lost that in recent years—to deliver a smoke-free 2030 would cost the UK about £315 million. That would involve adding back lost services. ASH's estimate for a levy, based on the model the APPG talks about, is £700 million. This could be a "polluter pays" model, and we would have plenty left over to overturn all those poor public health budget cut decisions taken over the last decade. If the spirit of yesterday's Budget was to try to rewind and erase the lost decade that we have had in this country, this would be a really good place to do that, and I think that is a good deal.

Of course, the EU tobacco tax directive is no longer a blocking factor, so we have complete agency to act in this area and it is in the gift of the Government, so I am very interested to know how far along the Minister or his colleagues are in the consideration, as they said, of this matter, and when we will see some proposals. Similarly, when will we see another tobacco control plan? That is something that everybody, from local government, public services, the private sector, community and voluntary services and all of us in this place, can organise around. The 2030 goal is a common goal. Pretty much everything that we have said in the new clauses are things that we are of one mind on. We can do something really good for the health of the nation, and I hope to find the Minister in action mode on that.

I will finish by referencing new clause 38, also tabled by my hon. Friend the Member for City of Durham, because I do not want it to look like I have ducked the question. It is important that we actively look at that and consider the evidence. I am perhaps not ready to say that it should be in the Bill, but it should be part of an active conversation in this area and part of a tobacco control plan. I think the Minister may be in a similar place on that, because we know that it is an effective part of the armoury. There are loads of really great things to go at in this set of new clauses, and I hope that he feels the same way.

The Minister for Health (Edward Argar): It is a pleasure, as ever, to serve under your chairmanship, Mr Bone. I am grateful to the hon. Member for City of Durham for giving us an opportunity to debate the new clauses. I had the privilege and pleasure, I think almost a year and a half or two years ago, when I was standing in for the Public Health Minister, of responding to a debate in the House on this subject—I think she was in Westminster Hall responding to another debate. I therefore had the pleasure of listening to hon. Members speaking about the work of the APPG, and this issue more broadly, on that occasion. It seems like an age ago. I suspect that it was only about a year ago, but that is what the last year and a half has done for many of us.

New clause 29 seeks to provide powers for the Secretary of State to impose a requirement for tobacco manufacturers to print health warnings on individual cigarettes and cigarette rolling papers. That requirement is intended to further strengthen the current public health messaging and encourage smokers to quit. The Government are sympathetic to the aims of the new clause. We strongly support measures to stop people smoking and to educate smokers of its dangers, as we have done through warnings on cigarette packs. However, we believe that we need to conduct some further research and build a more robust evidence base in support of such additional measures before introducing them. If evidence shows that that requirement would not be effective, there is a risk that the power would not be used. As hon. Members will be aware—the hon. Lady was right in the point that she made—health is a devolved matter. Therefore such a measure would need to be considered in partnership with the devolved Administrations.

We are currently in the process of developing our new tobacco control plan. When the hon. Lady winds up the debate on this group of new clauses, she may say, "All well and good, but we've been in that place for a while. When will I see it?" I would be surprised were she not to do so. We continue to work on the plan at pace. She will be aware that the events of the last year and a half have, in a number of areas, knocked the existing timelines for producing plans slightly sideways, but we continue to work actively on that. As part of the tobacco control plan that we are working on, we are exploring a broad range of new regulatory measures to support our ambition to be smoke free by 2030. We are reviewing this specific proposal as part of that work, in considering the options for a package of legislative measures.

New clause 30 seeks to provide a power for the Secretary of State to introduce a requirement for manufacturers to insert leaflets containing health information and information about smoking cessation services inside cigarette packaging. We believe that that power is not strictly necessary as the Department could legislate to do that already under the Children and Families Act 2014, as inserts could be required for public health messaging through amendments to the Standardised Packaging of Tobacco Products Regulations 2015. It is also important to note that we already have strong graphic images and warnings of the health harms of smoking on the outside of cigarette packs, and the NHS website provides advice for people seeking to quit smoking. That website address is required on packaging under the Tobacco and Related Products Regulations 2016.

The current regulations, the Standardised Packaging of Tobacco Products Regulations 2015, prohibit the use of inserts, as there was limited evidence during the development of those regulations that placing public

health messaging inserts inside cigarette packets was more effective than the messaging on the outside of packs. A post-implementation review of SPOT—if I may refer to the regulations in that way to save a little time—is currently under way. It is seeking to assess whether the regulations have met their objectives, and will identify whether there is a need to strengthen them in any way or to revisit any aspect of them, such as the one that the hon. Member for Central Ayrshire mentions. We aim to publish the post-implementation review before the end of this year.

If we were to introduce inserts through regulations, we would need to conduct further research on that. We would need to establish the public health benefit, costs to businesses, impact on the environment from litter and practicalities around enforcement, and crucially build a robust evidence base in support of such measures and their efficacy, along with, obviously, public consultation on them. This is something that we will consider as part of the Smokefree 2030 regulatory plans, but we will wait and see what, in the next couple of months, the published post-implementation review says. Health, as I have mentioned, is devolved, so it is something on which we would need to work with our friends and partners in the Scottish Government and other devolved Administrations.

New clause 31 seeks to enable legislation that would make provision about the retail packaging and labelling of electronic cigarettes and other novel nicotine products. That would include requirements for health warnings and the prohibition of branding elements that are attractive to children. I pay tribute to the work that the shadow Minister, the hon. Member for Nottingham North, has done in this space. I know that this is not just an issue of shadow ministerial concern for him, but something in which he has taken an interest as an individual Member of Parliament, so I recognise his expertise and knowledge in this area.

We are currently undertaking a post-implementation review of the Tobacco and Related Products Regulations 2016 as well. The current regulations include requirements on the packaging and labelling of e-cigarettes, along with restrictions on marketing, and they prohibit advertising on mainstream media such as TV and radio for e-cigarettes. Again, we will publish that review this year.

We want to encourage smokers to quit smoking using nicotine replacement therapy and by switching to less harmful products such as e-cigarettes. I take the point made by the hon. Members for Nottingham North and for Central Ayrshire. I share the shadow Minister's view that if there is a choice between a conventional cigarette and an e-cigarette, I would much prefer people to be smoking an e-cigarette, because it is less harmful. But I absolutely take the point made by the hon. Member for Central Ayrshire, who is, as we know, an eminent clinician, that even if it is less harmful, it is still harmful. The ideal would be that people use neither product, but if it is a choice between the two and a question of getting someone to change their habit, I would much prefer to see them using an e-cigarette than a conventional cigarette. I think that there is consensus on that point across the two Front Benches and, indeed, the SNP Front Bench.

However, we need to ensure that our regulatory framework continues to protect young people and non-smokers from using e-cigarettes. That is the point about the degree of harm: although less, it is still there. Regular youth use of e-cigarettes does, on current evidence, remain very low, at about 2% of 11 to 15-year olds. That figure dates back to 2018, so it is slightly dated, but it gives us a useful data point. However, I do not believe that that should induce complacency in any of us. We need to continue looking at the matter very carefully.

Again, the Government are sympathetic to the aims of the new clause and strongly support measures to protect young people. Again, I point to the timing and the need for the post-implementation reviews and for further research and consideration in the light of those when they come forward in the next few months.

New clause 32 seeks to give powers to the Secretary of State to make regulations to prohibit the free distribution or sale of any nicotine products to anyone under 18, with the exception of the sale or distribution of nicotine replacement therapy licensed for use by under-18s. There is already in place, as the shadow Minister alluded to, legislation that prohibits the sale of tobacco and e-cigarettes to under-18s; that includes proxy sales. There are also existing powers in the Children and Families Act 2014 to extend the age-of-sale restrictions to include any nicotine products such as nicotine pouches. Therefore, as he said, the new clause is not needed in relation to sales.

New clause 32 seeks to further protect young people from the distribution of free nicotine products to under-18s, but again, we do not have a firm or robust evidence base at present to suggest that that is a widespread problem. The recent post-implementation review of the Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015, published earlier this year, did not raise that as a concern. I suspect the hon. Member for Nottingham North will say, "Why not get ahead of the game, anyway, with a pragmatic measure?", and I have some sympathy with that point.

12 noon

Dr Whitford: With regard to the free provision of e-cigarettes or nicotine substitutes, the provision that could be amended quite simply by referring to where they are being provided through smoking cessation services, as opposed to where someone is buying them and then dishing them out, or is trying to use them to recruit young smokers. Accessing them commercially is quite different from being given them as part of a public health smoking cessation project.

Edward Argar: That is the point I was seeking to make. Smoking cessation services would still continue as normal. The argument from the shadow Minister, the hon. Member for Nottingham North—this is where I might diverge from him, not necessarily in intent but in the timing—is that even if we cannot see this as a problem at the moment, we should act now on the basis of principle. His argument is: "Even if it is not happening, why would we let it happen? We should just close the loophole"—I paraphrase, but I think that is his argument. My counter-argument is that it would be appropriate to look at this, but to conduct further research to develop the evidence base further. Beyond that we have—from 2018, for example—more work to do on vaping first. That is essentially the point of difference.

The shadow Minister might say, "I accept that, but I still think we should do it now." That is ultimately a difference in positions, not a point of principle about needing to look at this. It is about whether to act now or

[Edward Argar]

to do further research. That is the only difference, and the research is needed to evaluate the detailed benefits of the new clause. Also, there is the scale of the issue that we might be tackling. I know that the hon. Gentleman is fond of an impact assessment of the costs as well as the benefits. He rightly, as does his colleague on the Front Bench, the hon. Member for Ellesmere Port and Neston, and you on occasions, Mr Bone—

The Chair: Order. When I sit in this Chair, I have no views on anything.

Edward Argar: Except perhaps the proper conduct of proceedings.

Moving on swiftly, new clause 33 seeks to change the current flavour ban, which would of course be the context in which I was referring to proper conduct proceedings requiring proper documents to be published. The new clause seeks to change the current flavour ban, which is based on characterising flavours in cigarettes and hand-rolling tobacco, to one based on flavours for all tobacco products, as well as accessories used to flavour tobacco products.

The Government are committed to protecting the population from the harms of tobacco. Tobacco for smoking that has a detectable flavour—for example, menthol—has been changed to be more appealing to young people and easier to inhale. That can often result in a lifetime of tobacco addiction. Through the Tobacco and Related Products Regulations 2016, we have already banned characterising flavours in cigarettes and hand-rolled tobaccos. That means flavours that are noticeable before or during smoking of the product.

Again, the Government are sympathetic to the aims of the new clause, which would prohibit flavours in all tobacco products and accessories, but it is not clear how a ban on flavours would be enforced in practice, as it would include a ban on flavours that do not give a noticeable flavour to the product. Furthermore, it is not clear how this may be a better option than the current regulations, although the hon. Member for City of Durham might wish to address that point in her winding-up speech. As ever, I will reflect carefully on what she says and then discuss it with my colleague, the Public Health Minister. We are currently in the process of developing our new tobacco control plan. We are exploring, as I have said, a broad range of additional regulatory measures to support our Smokefree 2030 ambition.

New clauses 34 to 37—which, with your permission, Mr Bone, I will take in one bundle—seek to provide the Secretary of State with a power to enable the introduction of a scheme on tobacco manufacturers, limiting profitability by regulating prices. Tobacco taxation matters are, it will not surprise hon. Members to hear, a matter for Her Majesty's Treasury. Although earlier this week I found myself answering an urgent question relating to matters pertinent to Her Majesty's Treasury, I will not stray into its territory, beyond saying that reducing the affordability of tobacco is one of the most effective measures to trigger smoking cessation. Tax increases are particularly effective among a range of groups of smokers, and therefore this is a key tool in helping to address health disparities and health outcomes associated with smoking.

As part of the annual Budget process, the Treasury will continue the policy of using tax to raise revenues and encourage cessation through high prices on tobacco products. The tobacco industry is already required to make a contribution to public finances, through tobacco duty, VAT and corporation tax. While the Government are open to the idea of the tobacco industry providing additional funds beyond taxation, further consideration of the potential options for and impacts of a scheme, including a robust impact assessment, would be needed. We would also need to consider how such a scheme would be implemented and how it would impact the taxation requirements currently placed on the industry. Such a scheme would likely take a number of years to develop and deliver to ensure that it was effective and robust.

The Department will continue to work with Her Majesty's Treasury to assess the most effective regulatory means of making the industry pay for the harm that its products cause to our population, to support the Government's Smokefree 2030 ambition, including exploring a potential future levy. Our ongoing work has contributed to smoking rates falling to their lowest on record, as the hon. Member for Nottingham North said, but there is still much more work to be done to protect people from the harms of tobacco.

Finally, new clause 38 would introduce a power to introduce legislation that would increase the age of sale on tobacco from 18 to 21. We have successfully made many regulatory reforms over the past two decades, and the UK is a global leader in tobacco control. Measures include raising the age of sale from 16 to 18, a tobacco display ban, standardised packaging and a ban on smoking in cars with children, all strengthening the barrier between young people and tobacco products.

The Government remain committed to our ambition to be smoke free by 2030 and to continue to protect the population and future generations from the harms of tobacco. However, the Government would like to review the evidence base of increasing the age of sale to 21 in more detail—I am probably in the same place on that issue as the shadow Minister. We would like to further assess its full impact on public health, the costs of implementation and how it would be enforced by trading standards. We have not consulted publicly on raising the age of sale to 21 to assess public opinion and consider whether it is the right regulatory measure to take forward to protect future generations. I know it is an issue that the APPG and the Royal College of Physicians have recommended we should consider.

We are currently in the process of developing our new tobacco control plan. We will review all the proposals in that context, as well as the well-researched reports that the APPG has put forward. I suspect the hon. Member for City of Durham will still want to push us on a few of these points—if not disagreeing with the sentiment, then possibly with the speed or the timescale. I will listen very carefully to what she says. I encourage her not to press the new clauses, but I suspect I may be out of luck.

Mary Kelly Foy: I welcome the Government's commitment to publishing the plan and the consideration of some of the recommendations. I hope we will see that very soon. I will not press the majority of the new clauses, but new clauses 31 and 32 are aimed at children and child public health. I do not think we can wait.

We already have examples of vaping companies handing out free vaping products to 16 and 17-year-olds. There is an example of a 17-year-old woman on a market stall. A third party company came along and offered her vaping products in return for her email address, which was suspicious enough anyway. They do not tell the young person that the products have nicotine in them. There are already such examples.

I went online this morning to see whether I could purchase vaping products. The first one that came up was called the Breakfast Club, which tastes like marshmallow-flavoured breakfast charms. It is a shot of nicotine that goes into the refill of a vaping product. The refill is 15 ml, with a space left at the top for the shot. The Breakfast Club "charms", which come in pink and yellow, are aimed at young people. When I went to buy some, I was asked if I was over 18; I would just have to click "Yes" for it to be delivered to my door tomorrow.

There is evidence that the longer we wait, the more young people will be hooked on nicotine through vaping products. I do not think we need further evidence. How many more young people will be addicted by the time the plan is introduced? I beg to ask leave to withdraw the motion, but I will divide the Committee on new clauses 31 and 32.

Clause, by leave, withdrawn.

New Clause 31

PACKAGING AND LABELLING OF NICOTINE PRODUCTS

"The Secretary of State may by regulations make provision about the retail packaging and labelling of electronic cigarettes and other novel nicotine products including requirements for health warnings and prohibition of branding elements attractive to children."—*(Mary Kelly Foy.)*

This new clause would give powers to the Secretary of State to prohibit branding on e-cigarette packaging which is appealing to children.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 6, Noes 8.

Division No. 41]

AYES

Foy, Mary Kelly	Owen, Sarah
Madders, Justin	Smyth, Karin
Norris, Alex	Whitford, Dr Philippa

NOES

Argar, Edward	Double, Steve
Crosbie, Virginia	Gideon, Jo
Davies, Gareth	Higginbotham, Antony
Davies, Dr James	Robinson, Mary

Question accordingly negatived.

New Clause 32

SALE AND DISTRIBUTION OF NICOTINE PRODUCTS TO CHILDREN UNDER THE AGE OF 18 YEARS

"(1) The Secretary of State may by regulations prohibit the free distribution of nicotine products to those aged under 18 years, and prohibit the sale of all nicotine products to those under 18.

(2) Regulations under subsection (1) must include an exception for medicines or medical devices indicated for the treatment of persons aged under 18."—*(Mary Kelly Foy.)*

This new clause would give powers to the Secretary of State to prohibit the free distribution or sale of any consumer nicotine product to anyone under 18, while allowing the sale or distribution of nicotine replacement therapy licensed for use by under 18s.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 5, Noes 8.

Division No. 42]

AYES

Foy, Mary Kelly	Owen, Sarah
Madders, Justin	
Norris, Alex	Smyth, Karin

NOES

Argar, Edward	Double, Steve
Crosbie, Virginia	Gideon, Jo
Davies, Gareth	Higginbotham, Antony
Davies, Dr James	Robinson, Mary

Question accordingly negatived.

New Clause 39

STRATEGIES TO MANAGE THE NEEDS OF CARERS

"(1) Each integrated care board must have in place a strategy to collect information on the needs of patients' carers and respond to those needs to promote the health and wellbeing of carers.

(2) In this section "carers" has the meaning of Section 10 of the Care Act 2014, Sections 96 and 97 of the Children and Families Act 2014 and Section 1 of the Carers (Recognition and Services) Act 1995."—*(Justin Madders.)*

This new clause creates an obligation on integrated care boards to understand and respond to the needs of carers with regard to their health and wellbeing.

Brought up, and read the First time.

Justin Madders (Ellesmere Port and Neston) (Lab): I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 40—*Definition of carers*—

"(1) The National Health Service Act 2006 is amended as follows.

(2) In section 275 (Interpretation) insert—

'"carer" includes carers as defined by Section 10(3) and 10(9) of the Care Act 2014; parents of disabled children with reference to Section 97 of the Children and Families Act 2014; unpaid carers of disabled children as in Section 1 of the Carers (Recognition and Services) Act 1995; young carers with reference to Section 96 of the Children and Families Act 2014; and young carers with reference to Section 63 (6) and Section 63 (7) of the Care Act 2014.'"

This new clause inserts a definition of carers into the National Health Service Act 2006 which includes parent carers and young carers as well as adults caring for adults.

12.15 pm

Justin Madders: It is a pleasure to see you in the Chair this morning, Mr Bone.

[Justin Madders]

The NHS needs to have a core duty to have regard to carers and to promote their health and wellbeing. New clause 39 would put on a statutory footing the requirement for integrated care boards to collect information on carers and their families, and then to use it to develop strategies to promote their health and wellbeing. This is an attempt to ensure a strategic approach to the need for the NHS to demonstrate that it has considered carers in its policies and practice. In other words, all parts of the NHS would have to think carer.

The new clause would avoid situations arising in which carers had been omitted from consideration, for instance in hospital discharges, by ensuring proper care-proofing throughout the entire NHS. We believe that could help integration. Social care sees carers as an equal partner in care and very much part of the system, but sometimes there is a less favourable experience in the health service.

There would also be benefits to the NHS overall, through improved health and wellbeing, improved satisfaction with services, reduced admissions and readmissions, reduced crisis and reduced need. The new clause would avoid the significant omission of carers in recent guidance and improve the general approach to carers. It would also be good for NHS staff, one in three of whom couple working in the NHS with unpaid caring for family members and friends. Research shows increased job satisfaction when employers recognise carers, and the Minister will know how important it is to improve retention rates.

There is definitely an issue here. Surveys have consistently shown a problem, with 55% of carers saying that they agree or strongly agree with the statement, "I feel invisible to the NHS". They are often providing more than 50 hours of care a week, which is more than a full-time job, and are essential to the NHS, yet that goes unrecognised. There are a range of other statistics on how carers feel about the recognition of their role; 56% agree or agree strongly with the statement, "Health services and professionals do not share information with me, even if it is essential for me to be able to care". More than half are not involved in decisions on hospital discharge, two thirds of carers do not feel listened to by healthcare professionals about their willingness and ability to care, and a majority are not given enough information and advice when a person they care for is discharged from hospital to care for them safely. Most carers—60%—say that at the point of hospital discharge, they receive insufficient support to protect the health and wellbeing of the patient, or their own health.

Under the Health and Social Care Act 2012, carers have parity of esteem, and an equal right to receive information and advice and to have their needs considered. The Government accept that that is right for social care, so we think it should apply equally in healthcare. The NHS has very few responsibilities towards carers when compared with the social care sector. Carers were left out of the original Joint Committee on Vaccination and Immunisation decision on vaccination, even though they were in the green book. They were completely left out of the White Paper that underpinned this Bill; they were left out of two versions of the "Discharge to Assess" guidance; and they barely get a mention in integrated care partnership guidance—there is one reference in there to unpaid carers.

Several organisations are keen to support the approach set out in the new clause, including the Patients Association and the MS Society. The new clause would serve as an important marker in laying out the importance of carers, and it would help us work towards proper strategies to ensure that their value is recognised and that they are supported.

Turning to new clause 40, carers are mentioned in clauses 5 and 19, but are not defined anywhere. They could in theory include carers of any age. The new clause seeks to ensure absolute clarity about who the term "carer" refers to: it would refer to unpaid carers only—not volunteers or paid staff, but friends and family, commonly, who provide care. This keeps the definition consistent with other legislation, and includes parents of disabled children and, most importantly, young carers, who are particularly vulnerable to being forgotten. Young carers face more health inequalities than other children of the same age, and that persists into young adulthood. Every GP patient survey has shown that it is essential that it is made clear and explicit in legislation that provisions on carers include young carers.

In conclusion, we want to acknowledge the vital contribution that carers make, which can be quantified as running into billions of pounds. The NHS could not function without the daily support of unpaid carers, and during the pandemic the extra caring responsibilities that carers took on stopped the NHS being completely overwhelmed. These new clauses ensure carers' needs will be at the heart of NHS decision making and polices. That is why we hope the Minister is sympathetic to them.

Edward Argar: New clauses 39 and 40 focus on carers. First, I join the shadow Minister, as I suspect all hon. Members wish to, in recognising and paying tribute to the enormous amount of work that carers, both formal and informal, do. We want to strengthen the system by which carers are supported, and ensure that those receiving care have choice and control over how they access services.

New clause 39 would create an obligation on integrated care boards to collect information, and understand and respond to the needs of carers with regard to their health and wellbeing. The Bill provides an opportunity to ensure the views of carers are properly embedded in integrated care boards. The Bill confers a duty on integrated care boards to promote the involvement of carers, along with those who access care and support, in decisions relating to the prevention, diagnosis and treatment of illness, and care. There are equivalent provisions for NHS England-commissioned services.

Furthermore, the joint strategic needs assessment, prepared by health and wellbeing boards, will continue to have to consider the needs of carers, and that will shape the strategy developed by the integrated care partnership and the plans of the ICB. That means the services commissioned through these routes in the area where a carer lives will have considered the impact on carers in that community. Carers UK has welcomed the clauses for recognising

"the crucial role carers play day in, day out supporting their relatives' health",

and it says the clauses

"give carers more of the visibility they need within health legislation."

Dr Whitford: Does the Minister recognise the difficulty in getting unpaid carers to recognise that they are unpaid carers? Particularly during covid, couples may have grown into a caring role without ever thinking of themselves as carers, and therefore they do not seek financial or other support. We need a campaign to try and get people to recognise that they are carers. A project that I was involved in when I was back in the NHS in the first wave used the community pharmacy system to interact with carers who were collecting medicines, and helped guide them to the available support.

Edward Argar: I entirely agree with the hon. Lady. There is a huge number of unpaid carers who we know about, and who recognise themselves as carers, but there will be a huge number who, as she says, do not see themselves in that way. They see caring for a loved one as part of their normal life, and as what they do; they do not recognise that they are providing care.

There is also a large, often unidentified, number of child carers. They care for their parents, grandparents and others, but they will not think of it in that way. They just think they are doing their bit to look after mum or dad, or granny or grandad. The hon. Lady is right to highlight the need for all of us—both in government and other Members—to make it as clear as possible that these people are carers and should be able to access support and help. There is support and help available, but people need to understand that they are in that category and are entitled to it. That is a long answer to basically say that I entirely agree with the hon. Lady.

We are not convinced that the provisions of new clause 39 are appropriate for the ICB, as a similar duty to that in the new clause is already held by and imposed on local authorities, so it risks causing duplication. The local authority will be part of the ICB and of the ICP, so we feel that the issue is captured.

Carers already have a legal right to an assessment of their needs from their local authority. Local authorities have a legal duty to meet needs identified through a carer's assessment where the carer is deemed eligible. In 2019-20—the latest figures I have to hand—376,000 unpaid carers in England were assessed, reviewed, and/or supported. However, the number may well be a lot higher than that figure, which goes to the point made by the hon. Member for Central Ayrshire.

We continue to work closely with stakeholders, care organisations and the wider sector to support carers. We will work with care users, providers and other partners to co-develop more detail on our plans for the reform of adult social care. We will publish further detail of our plans for reform in a White Paper later this year, building of course on the strong foundations of integration we are setting in this legislation. The shadow Minister, the hon. Member for Ellesmere Port and Neston, would have been disappointed or concerned about me if I had not said that, and would have wondered what was going on.

New clause 40 introduces a definition of carer that includes—this goes to the point to which I have just responded—young carers, parent carers and adult carers. It seeks to bring clarity and to ensure that all carers, regardless of their age or their relationship with the person they care for, benefit from the measures in the Bill related to carers. The circumstances and needs of every unpaid carer are unique. Unpaid carers make a vital contribution to the lives of those they care for, and I know that every member of this Committee would want to put on record a tribute to them. It is important that we continue to work to understand carers' needs and how to best support them, while reflecting the diversity of carers.

I have already discussed the measures in the Bill designed to promote the involvement of carers. "Carers" in this context should include anyone, child or adult, who cares, unpaid, for a friend or family member who, due to a lifelong condition, frailty, illness, disability, serious injury, mental health condition or even addiction, cannot cope without their support. In seeking clarity and inclusion, it is important that we do not inadvertently exclude groups of carers. The legislation as drafted is based on an everyday use of the term "carer", and this allows for flexibility and the inclusion of all who provide unpaid care, in any shape or form, to a loved one or friend.

I appreciate, and to a large extent share, the shadow Minister's intention of strengthening the legislation and seeking to bring clarity, so that those who are entitled to support know it, and can claim what they are entitled to. I want to reassure members of the Committee that we have today heard the concerns expressed about carers. I will take that away and carefully consider the issues, and see if we can continue to address them through the wider work of the Department on carers, and our ongoing discussions with organisations, many of which we deal with as constituency MPs, week in and week out, on their work in our constituencies.

For these reasons, I encourage the hon. Member for Ellesmere Port and Neston to consider not pressing his new clauses to a Division, but I look forward to hearing from him.

Mary Kelly Foy: For those who do not know, I should say that I was a carer for my severely disabled daughter for 27 years. Maria died six years ago; she suffered with cerebral palsy. I was very fortunate to be in a local authority that recognised the need for respite for carers. I was lucky enough to have a very generous package of six weeks, and that allowed me to engage with public life, have a social life and just recharge my batteries. However, other local authorities do not give such generous packages; it is a postcode lottery. When carers can no longer look after their loved one and that person has to be placed in social care, the cost to the public purse is huge.

On young carers, the issue is not just the caring role of young children. My children were classed as young carers, and the package they had was to enable them to enjoy social activities with other young people. They felt very left out of normal activities, because I was spending most of my time looking after Maria. It is very important that carers recognise that there is help out there, and help has to be consistent. As we know, local authorities have had their budgets cut massively, so what was once perhaps a gold star service for carers is down to a much lesser service.

[Mary Kelly Foy]

A lot of carers I knew did not think they were carers and did not really want anything from the state. They said, "We're just doing it because this is our loved one, and this is what we need to do." However, the needs, health and wellbeing of unpaid carers are so important if we want them to continue doing the fantastic job that they do.

Justin Madders: I am grateful to my hon. Friend for relaying her family's experience. She has articulated far better than I could why it is so important that we support carers, and young carers in particular.

I have listened to what the Minister said about the new clauses. I think he is keen to support this agenda, and there is clearly quite a lot of change happening in the Department over the next few months. We will keep an eye on how the issue of carers sits within that, and how ICPs work in practice, and will not push our new clauses to a vote. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 41

REVIEW OF IMPLEMENTATION OF NHS CONTINUING HEALTHCARE BY INTEGRATED CARE SYSTEMS

"(1) Chapter 3 of Part 1 of the Health and Social Care Act 2008 (quality of health and social care) is amended as follows.

(2) After section 46A insert—

'46B Review and performance assessments: integrated care systems

The Commission must, each year—

(a) conduct a review of the implementation of NHS continuing healthcare by integrated care systems,

(b) assess the performance of these systems following the review, and

(c) publish a report of its assessment.'"—*(Justin Madders.)*

This new clause would require the review and assessment of NHS continuing healthcare systems.

Brought up, and read the First time.

12.30 pm

Justin Madders: I beg to move, That the clause be read a Second time.

Continuing healthcare ought to be something that we do not need to think about in a truly integrated care system. Hopefully, when the next White Paper comes along, it will address some of our issues with continuing healthcare—no doubt the Minister will tell us whether that is correct.

We all know that continuing healthcare is a huge source of contention between the NHS and local authorities. Arguing about who pays for what is not productive or efficient, and of course it is always the patient who is stuck in the middle. I have numerous examples, as I am sure other hon. Members do, of constituents who have been wrangling, for years after the care was provided, about who is picking up the bill for what. It seems a highly bureaucratic, unfair and at times deeply distressing experience for the families involved.

It has been clear for decades that we are moving into a world where many people will have multiple long-term conditions, with both health and social care needs. The new clause was tabled with that in mind, and with the assistance of the Motor Neurone Disease Association. As one would expect, those with MND often fall into the CHC web. I cannot allow a reference to MND to pass without paying tribute to Rob Burrow and the many other magnificent campaigners who have put the spotlight on the challenges that those diagnosed with MND face. I had the privilege of knowing Rob when he was a professional sportsman, and he has taken equal vigour, determination and courage into this field. He has been an absolute star in campaigning on these issues.

Under the current complex and poorly understood rules, some qualify for free social care—in other words, the NHS pays for it, rather than the local authority—but it is for adults only, and in order to qualify there has to be an assessment by professionals of all a person's needs. If the needs change, the eligibility can change, and of course there are endless arguments about what the needs are at any particular time. That demonstrates why the integration of care is very important and will probably be more efficient in the long run. Those in receipt of, or possibly eligible for, continuing healthcare should be fully involved in the assessment process and kept informed. Carers, who we have already discussed, and family members should also be consulted. There are the personal experience aspects of the process to look at, as well as the arguments about who pays for what.

The new clause accepts that we cannot fix all these things overnight. It suggests that in some cases someone should be responsible for ensuring that the system works properly in the interests of those with continuing needs. This is all part of the wider application of proper openness, and of transparency being the strongest and best form of good governance.

Clinical commissioning groups have a legal responsibility to meet the assessed health and care needs of every person in their area who is found eligible for continuing healthcare. Their responsibilities are laid out in the national framework and supporting guidance, but I am afraid there is extensive evidence that they do not always fulfil those responsibilities, and that the monitoring of delivery of continuing healthcare is inadequate. In 2018, a Public Accounts Committee inquiry on continuing healthcare found:

"NHS England is not adequately carrying out its responsibility to ensure CCGs are complying with the legal requirement to provide CHC to those that are eligible."

It also found that

"there are limited assurance processes in place to ensure that eligibility decisions are consistent",

and that existing measures

"may not go far enough to address the variation in performance"

across CCGs. These findings were echoed in a November 2020 report by the Parliamentary and Health Services Ombudsman, which warned that

"people continue to be seriously let down by failings in the way…healthcare is handled by CCGs."

Patient organisations, represented collectively through the Continuing Healthcare Alliance, have reported a wide range of significant problems in CHC delivery,

including CCGs not adhering to the national framework or associated guidance for assessment and care delivery, leading to significant inconsistency and variation across the country. Not enough data is collected about who receives continuing healthcare and multidisciplinary teams are frequently not used to conduct assessments, which leads to them sometimes being carried out by individuals with no knowledge of that person's history or their medical condition. Care packages are frequently inadequate to assess needs, particularly when individuals require complex care or specialist care input. There is no effective system or process in place to monitor the quality of delivery across the country, to address that unwarranted variation and to take action when commissioners fail to live up to their legal responsibilities in respect of CHC.

We are seeking to address some of those issues through the new clause. We have what we would describe as an accountability gap, where there is no effective mechanism to monitor delivery of CHC and hold to account those who are meant to be responsible for delivering it. It goes without saying that people in receipt of CHC are sometimes the most vulnerable in the population, by definition, and it is surely unacceptable that a group of individuals continue to be let down by a failing system with no mechanism to identify and address those failings.

We hope that the new clause will address that issue and support better patient experience and outcomes with CHC. I do not intend to press it to a vote, but I would appreciate some responses from the Minister. The issue is not going to go away, so I would like his thoughts about the future of the whole idea of continuing healthcare and how we best monitor and ensure consistency and compliance throughout the country. Any thoughts on how we can make the system better would be most welcome.

Edward Argar: I am grateful to the hon. Gentleman and join him in paying tribute to the work of the MND Association and other campaigners who do so much to bring these issues to our attention, both as individual MPs and in debates such as this.

The new clause would impose a new duty on the Care Quality Commission to conduct a review and assess the performance of NHS continuing healthcare, or CHC, by integrated care systems each year. It would also require the CQC to publish a report of its assessment. Again, as with many of the hon. Gentleman's proposals, I understand and have a degree of sympathy with the intention behind what he seeks to do with the new clause. It is right that clinical commissioning groups, as they are currently called, are held accountable for NHS continuing healthcare within their local health and social care economy. That will also be the case with the national move to integrated care boards, where the board will discharge those duties and be accountable for NHS continuing healthcare as part of its NHS commissioning responsibilities.

I am grateful to the hon. Gentleman for suggesting that the new clause is, in essence, a probing amendment to highlight the issue, because I am not convinced that it is necessarily the most effective way of doing that, although it certainly airs the issue in Committee. I reassure him that the Government share his view about the importance of ensuring adequate oversight in how health and social care services are delivered, including in this space.

First, by way of some reassurance, NHS England has a core role in overseeing ICBs in the exercise of their functions. The Bill requires NHS England to assess the performance of each ICB every year and ICBs are required to provide NHS England with their annual report, which will include oversight of NHS commissioning and thus, in that context, continuing healthcare.

In addition, as Members will be aware, we have debated an amendment to give the CQC a duty to assess integrated care systems at a system level. The intention is for these reviews to provide the public and the system with independent assurance of the work within the ICS and, in particular, the effectiveness of joined-up working and integration. They, too, will be a valuable way to improve the services provided. The scope would include NHS commissioning and NHS continuing healthcare. We also intend for the CQC to work closely with NHS England, which will be conducting its own assessment of integrated care boards. We therefore think that those are the most effective vehicles for that oversight.

However, I share the hon. Gentleman's view and suspect that we will all, possibly with a degree of regularity, have constituency cases about continuing healthcare payments and whether the system is working efficiently or otherwise. Local healthcare systems must continue to focus on this and seek to do what they can to make the system as smooth and efficient as possible. We believe that the mechanisms in the Bill are an effective way of doing that, but that in no way implies that individual systems should stop looking at ways of continuing to improve that provision and the mechanism by which continuing healthcare funding is delivered to individuals.

Justin Madders: I am grateful to the Minister for his comments—it seems that the message has been received. Obviously, if the ambitions in the Bill to improve integration, collaboration and joint working are to be delivered, this will be one area where we would expect to see significant improvements. I have no doubt that we will return to this in future, but I beg to ask leave the withdraw the motion.

Clause, by leave, withdrawn.

New Clause 42

ALCOHOL PRODUCT LABELLING

"The Secretary of State must by regulations make provision to ensure alcoholic drinks, as defined by the Department for Health and Social Care's Low Alcohol Descriptors Guidance, published in 2018, or in future versions of that guidance, display—

(a) the Chief Medical Officers' low risk drinking guidelines,

(b) a warning that is intended to inform the public of the danger of alcohol consumption,

(c) a warning that is intended to inform the public of the danger of alcohol consumption when pregnant,

(d) a warning that is intended to inform the public of the direct link between alcohol and cancer,

(e) a full list of ingredients and nutritional information."—*(Alex Norris.)*

This new clause requires the Secretary of State to introduce secondary legislation on alcohol product labelling.

Brought up, and read the First time.

Alex Norris: I beg to move, That the clause be read a Second time.

I welcome the Government's commitment to bring forth a consultation on introducing calorie labelling on alcohol products, for which we have been calling for some time, but I do not think there is a need to wait for this to be introduced in order for alcohol products to display the chief medical officer's low-risk drinking guidelines, health warnings, ingredients and nutritional information, which is what the new clause asks for, mirroring what clause 127 does for food.

As it stands, there are no legal requirements for alcohol products to include health warnings, calorie information or even basic information such as ingredients. I am aware of the research by the Portman Group, which says that nearly half choose to do so. However, it is not quite cutting through. Consumers have a right to know what they are consuming and the associated risks, but many people are unaware of the calorie content in alcohol. About 80% of people are unable to identify the number of calories in a large glass of wine. Furthermore, beyond the most obvious risks of drinking alcohol, many people are unaware of the broader risks. Only a quarter of people are aware that alcohol is linked to breast cancer.

Similarly, despite alcohol's link to worse pregnancy outcomes and serious lifelong impacts on a baby, one in three people are unaware that it is safest not to drink while pregnant, and it is estimated that 41% of women consume alcohol during pregnancy. That is a serious matter, and the issue of foetal alcohol spectrum disorder is not well known enough in this country. Especially in communities such as mine, I suspect that it has a profound impact on child development, which I know we will talk about shortly. My predecessor, Graham Allen, was a very strong proponent of a national study into FAS, and I echo his call. I really hope that might be something the Minister addresses, because it would have profound outcomes for child development and some of the care services that we might need in communities such as mine.

The public have a right to know what is in what they drink and eat and to make informed choices. I will not go round the bars snatching bottles of beer or glasses of wine out of people's hands—I could not credibly do that, but I also have not inclination to do that. However, people should have a free and full understanding of the impacts of drinking alcohol and make their own judgments based on that. A recent survey conducted by YouGov found that 75% of people want the number of units in a product on the label, 61% want calorie information and 53% want the amount of sugar to be displayed. Again, this is what people want. Notwithstanding the research on some of the good things that the industry is doing voluntarily, which I pointed to earlier, we are still in a situation whereby that is not happening enough.

The Alcohol Health Alliance did a review of 424 alcohol product labels in London, the south-east and north-east of England, Wales and Scotland, which revealed that 71% of labels did not include the chief medical officer's low-risk drinking guidelines. More than one quarter of labels included incorrect or misleading information that was either out of date or from other countries, 72% of labels did not list the ingredients and a majority had no nutritional information. Just 7% of labels displayed full nutritional information including calories, which is what we called for.

12.45 pm

Dr Whitford: Many of the labels simply say, "Drink responsibly" or, "Drink aware", but, as the hon. Gentleman is highlighting, the lack of information on labels introduces quite a complex step of that person having to go and look up the risk of harm or the unit measures. Yet we have just been debating the need to have warnings on cigarettes. Alcohol introduces harm both to the individual and, if they are heavy drinkers, to those around them, and therefore we should be taking this seriously. We have tried to do so in Scotland with measures such as minimum unit pricing, but information to the consumer is the first step.

Alex Norris: I am grateful for that intervention. I would certainly not talk down including the very broad messages that the hon. Lady mentions; I know that in an overwhelming number of cases that is available, but, as she says, that is not enough. People are conscious of that message and we should keep reinforcing it, but the jump-off point is, "So what? What am I going to do differently, or what do I need to understand differently?" At the moment, we are not helping them in that process.

This new clause, mirroring clause 127, asks the Secretary of State to introduce secondary legislation to compel the inclusion of this sort of information on products. It is a relatively modest ask, but it promotes informed choice, which in this area would be a very good thing. I do not think we should miss the opportunity to put it in the Bill.

Edward Argar: As has been set out, this new clause would make provision to ensure that alcoholic drinks display the chief medical officer's low-risk drinking guidelines, a warning intended to inform the public of the danger of alcohol consumption, a warning intended to inform the public of the danger of alcohol consumption particularly when pregnant, a warning intended to inform the public of the direct link between alcohol and cancer, and a full list of ingredients and nutritional information.

First, let me say that alcohol labelling is an important part of the UK Government's overall work on reducing alcohol harm. We believe that people have a right to accurate information and clear advice about alcohol and its health risks to enable them to make informed choices for themselves about their drinking. However, we feel that the new clause is unnecessary, because the Government are about to launch a consultation on these matters.

As part of our tackling obesity strategy, published in July last year, the Government committed to consulting on whether mandatory calorie labelling should be introduced on all pre-packaged alcohol, as well as alcoholic drinks sold in the out-of-home sector. The Government have worked with the alcohol industry to ensure that labels on pre-packaged alcohol reflect the UK chief medical officer's low-risk drinking guidelines, and the industry has made some progress towards achieving that.

To make further progress, as part of our public consultation on alcohol calorie labelling we will also seek views on whether provision of the chief medical officer's low-risk drinking guidelines, which include the various specific warnings that the hon. Gentleman mentioned, such as drinking in pregnancy and the

drink-drive warning, should be mandatory or should continue on a voluntary basis. Respondents to the consultation will be able to provide suggestions for additional labelling requirements that they would like the Government to consider, such as nutritional information. As I said, that consultation will be launched shortly.

Clause 127 confers a power on the Secretary of State in England, and on Ministers in the devolved Administrations in Scotland and Wales, to make improvements to and amend or repeal articles of European Union Regulation 1169/2011. This EU regulation currently prohibits mandatory calorie labelling on pre-packaged alcohol that is 1.2% alcohol by volume and above. The passage of this legislation will therefore enable Governments to introduce changes such as mandatory calorie labelling on pre-packaged alcohol labels through regulations.

If a decision is made to mandate those labelling requirements following the consultation, the Bill will support the Government in being able to make the necessary changes through a new power in the Food Safety Act 1990. Consistent with the Government's obligation to consult on matters concerning food law, before any regulations are made, a consultation with interested stakeholders must take place. Therefore, as there is a statutory duty to consult on introducing mandatory labelling requirements and as work on improving alcohol labelling is under way, we do not believe that a separate clause in the Bill is necessary at this time. I encourage the shadow Minister to be reassured by what I have said and to consider not pressing his new clause to a vote.

Alex Norris: I am grateful to the Minister for his response. Any measure, as with that in the new clause moved by my hon. Friend the Member for City of Durham, again relies on us waiting for consultation. It feels like an awful lot of consultation, which is of course an important part of doing the process right, but we should never confuse it with action. We have spent an awful lot of time in this space, and it feels as if there is a danger that we are into soft-pedalling territory, rather than action territory. Nevertheless, I heard what the Minister said, that it is an active process, so on that basis I will not press for a Division. We will reflect on the issue on the Labour Benches but, widely among those interested in the area, there is a growing sense of impatience. I hope that us giving the Minister and the Government space to continue the process is not confused with us being content that we are going quickly enough—I feel strongly that we are not. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 43

ANNUAL REPORT ON ALCOHOL TREATMENT SERVICES: ASSESSMENT OF OUTCOMES

"(1) The Secretary of State must lay before each House of Parliament at the start of each financial year a report on—

(a) the ways in which alcohol treatment providers have been supported in tackling excess mortality, alcohol related hospital admissions, and the burden of disease resulting from alcohol consumption, and

(b) the number of people identified as requiring support who are receiving treatment.

(2) Alongside the publication of the report, the Secretary of State must publish an assessment of the impact of the level of funding for alcohol treatment providers on their ability to deliver a high-quality service that enables patient choice."—*(Alex Norris.)*

This new clause would require the Secretary of State for Health and Social Care to make an annual statement on how the funding received by alcohol treatment providers has supported their work to improve treatment and reduce harm.

Brought up, and read the First time.

Alex Norris: I beg to move, That the clause be read a Second time.

The new clause would put a duty on the Secretary of State to make an annual statement on the spend on, and impact of, alcohol treatment services. Each day in the UK, 70 people die of alcohol-related causes. Alcohol is linked to 200 different diseases and injuries and costs the NHS £3.5 billion each year. Good alcohol treatment is essential to support those with alcohol dependence towards recovery. That is important for individuals and for the collective, because it reduces emergency services call-outs, unnecessary hospital admissions and avoidable deaths.

Despite the importance of treatment, even going into the pandemic, only one in five dependent drinkers were believed to be in treatment—that is 80% lacking healthcare. The incomprehensible and frustrating picture in this country in recent years, between 2016 and 2018, is that more than two thirds of local authorities in England cut their alcohol-treatment budgets, and in 17 of them those cuts were greater than 50%.

Having been a local councillor in that period, responsible for public health in my community, I know that no colleague did that because they thought it was the right thing to do for their community; they did it because the public health grant in this country has been run down over the past decade, which has been an absolute tragedy. Those are the sorts of services that we have lost.

A very visible example comes from St Mungo's—we all know its wonderful work—which estimates that funding cuts have meant that 12,000 fewer rough sleepers accessed support in 2018-19 than would have done had funding remained at 2010 levels. The covid pandemic has only worsened the situation, leading to significant and sustained increases in the rate of unplanned admissions for alcoholic liver disease. This issue is very important now, in the very immediate term. We need to act.

Owing to resource cuts, however, many alcohol treatment providers have been forced to reduce their offer. A lack of outreach resources leads to people with some of the most complex needs missing out on support, while the reduction in capacity means that many of those at the lower levels, where an earlier intervention would be very impactful, miss out as well. Those with greater dependency are not getting specialised treatment or, in some cases, are not getting any treatment at all.

I strongly believe that the Bill needs to address the importance of alcohol treatment in terms of its funding and impact. Requiring the Secretary of State to report to Parliament on the ways in which alcohol treatment services have been supported and funded, and on the number of people requiring treatment and how that need is being met, will keep the issue at the forefront.

The Government's own alcohol strategy states that alcohol treatment services

[Alex Norris]

"offer the most immediate opportunity to reduce alcohol-related admissions and to reduce NHS costs."

We also know that for every £1 invested in alcohol treatment £3 is yielded in return, rising to £26 over 10 years. Recovery also yields powerful dividends for families and communities affected by addiction, but at the moment we are going the wrong way in terms of our commitment to this issue. What I am asking for in the new clause, and I think it is a relatively modest ask, is for the Secretary of State to have on an annual basis an honest and candid assessment of the situation in this country, and then to account for the activity that is being taken to meet the need. It would be a very powerful statement that the Secretary of State and the Department have a grip of the issue and are committed to it, so I hope to find the Minister in listening mode.

Edward Argar: As ever, I am grateful to the shadow Minister for his exposition of the new clause, which would introduce a duty on the Secretary of State for Health and Social Care to publish an annual statement on how the funding received by alcohol treatment providers has supported their work to improve treatment and reduce harm. It would also introduce a duty on the Secretary of State to publish an assessment of the impact of the level of funding for alcohol treatment providers on their ability to deliver a high-quality service that enables patient choice. I join the shadow Minister in paying tribute to St Mungo's for the work that it does, which I think we would all recognise across the House.

We do not think that a new reporting requirement introduced by the new clause is necessary as significant work is already under way in this area. Outcomes for local authority-funded alcohol treatment services are already published via the Office for Health Improvement and Disparities' national drug treatment monitoring system. They are monthly and quarterly reports provided at a local authority level, and annual reports at a national level. The Office for Health Improvement and Disparities also publishes annual data on estimated numbers of alcohol dependent adults in each local authority in England. Health commissioners can use that resource to estimate the number of adults in their area who need specialist treatment, supporting them to appropriately plan and improve alcohol treatment services.

The Office for Health Improvement and Disparities provides a number of data tools to support local areas to compare their performance against that of other areas, and against national performance. Those tools include the public health outcomes framework, local alcohol profiles for England, and the spend and outcomes tool. With respect to spending, local authorities are currently required to report on their spend on alcohol harm prevention and alcohol treatment on an annual basis to the Department for Levelling Up, Housing and Communities. Part 2 of Dame Carol Black's independent review of drugs was published in July 2021 and the Government, in their initial response, published on 27 July 2021, agreed to carry forward its recommendations and publish a new drugs strategy later this year.

The review recommended increased transparency and accountability from local authorities on how funding is spent. Although the subject of the review was drugs, the implementation of that recommendation will apply to both drug and alcohol treatment through mechanisms such as an improved commissioning standard, which is currently in development. I therefore encourage the shadow Minister not to press the new clause to a Division.

Alex Norris: I cannot quite accept that answer from the Minister. I understand the significant work that he talks about, and the different places where data is available. Those things tell us what is going on; they do not tell us why, and what we intend to do about it as a country. As a result, I do not think that is delivering for us, and we see that in the very difficult outcomes. On that basis, I am afraid I will have to press the new clause to a Division.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 5, Noes 8.

Division No. 43]

AYES

Foy, Mary Kelly	Owen, Sarah
Madders, Justin	
Norris, Alex	Smyth, Karin

NOES

Argar, Edward	Double, Steve
Crosbie, Virginia	Gideon, Jo
Davies, Gareth	Higginbotham, Antony
Davies, Dr James	Robinson, Mary

Question accordingly negatived.

Ordered, That further consideration be now adjourned. *—(Steve Double.)*

1 pm

Adjourned till this day at Two o'clock.