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DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
LD	Liberal Democrat
LD Ind	Liberal Democrat Independent
Non-afl	Non-affiliated
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House of Lords

Monday, 13 July 2015.

2.30 pm

Prayers—read by the Lord Bishop of Portsmouth.

Oaths and Affirmations

2.37 pm

Baroness Knight of Collingtree took the oath, and signed an undertaking to abide by the Code of Conduct.

Lord Collins of Mapesbury made the solemn affirmation, and signed an undertaking to abide by the Code of Conduct.

Occupational Pensions: Survivor Benefits

Question

2.38 pm

Asked by ***Lord Naseby***

To ask Her Majesty's Government when they propose to act to address the restriction of survivor benefit payments to widowers and same-sex partners highlighted in their June 2014 *Review of Survivor Benefits in Occupational Pension Schemes*.

Lord Naseby (Con): My Lords, in asking the Question standing in my name on the Order Paper, I declare an interest as a trustee of the parliamentary pension fund, and that my wife is a retired full-time NHS GP.

The Minister of State, Department for Work and Pensions (Baroness Altmann) (Con): My Lords, the Government are absolutely committed to equality. Current legislation requires all couples to be treated equally and survivor benefits are built up on an equal basis going forward. The review covers complex issues of legislation and entitlements built up in the past. Any changes could have significant implications, including costs, for private and public sector pension schemes so we must consider the review's findings thoroughly and understand those implications fully before making a decision about whether retrospective changes should be made.

Lord Naseby: I am most grateful to the Minister for that Answer but I would like to focus on the situation of female GPs, many of whom retired around the beginning of this century. They contributed an identical amount to that of their male counterparts. The widows of the male doctors get a 50% pension. Is my noble friend aware that current widowers, and possibly those in the future, get only about 18%? Can she rectify this anomaly, bearing in mind that both parties, male and female, have contributed an equal amount of money to the pension?

Baroness Altmann: My noble friend will know that the specific differences in treatment between male and female scheme members for the purpose of survivor benefits in public service pension schemes for service prior to 1988 were held to be lawful in 2011. This judgment was made in the Cockburn case, which specifically discussed a widower whose partner was a member of the National Health Service Pension Scheme. The judgment effectively said that there was in that case,

"an objective and reasonable justification",

not to make retrospective changes in relation to new policy being introduced.

Benefits for widows were introduced much earlier than for widowers. The Social Security Act 1975 first imposed obligations on contracted-out schemes to provide a surviving female with a survivor pension. In those days it was usual for the man to be the partner who was working, with a dependent female partner. A female worker with a dependent husband was not the social norm. The scheme funding would have been based on the expectation that a female member would not have a dependent survivor, whereas the male would have a dependent survivor.

Lord Cashman (Lab): My Lords, does the Minister agree that this issue of equality should have been dealt with prior to the Civil Partnership Act and the same-sex marriage Act? People who survive their partners are having to cope at the time of death with appalling inequality, which should be unacceptable. Will the Minister act with expertise and expedite this matter urgently?

Baroness Altmann: My Lords, the Government are very sympathetic to the principles of equality and if we were confident that equalising these benefits would be straightforward, affordable and sustainable we would be happy to support more equalisation. But we have to think carefully before imposing on schemes retrospective costs which could not have been taken into account in past funding assumptions. We are absolutely committed to tackling discrimination in all its forms and creating a fairer society for everyone, regardless of sexual orientation or gender identity, but the benefits people receive—

Noble Lords: Too long!

Baroness Altmann: The benefits people receive from a pension scheme are based on their personal circumstances rather than the contributions they have paid. The overall contributions are assessed on the basis of assumptions relating to the entire membership and there is a degree of cost-sharing between members. In order to equalise—

Noble Lords: Order.

Lord German (LD): My Lords, equalisation is a very important issue to many people in same-sex partnerships and it therefore has to be dealt with rapidly. Indeed, when this House passed the Act, we expected a rapid answer to it. Of course, costs will be involved but they will rise if they are not dealt with now, and we know they will diminish over time to a very small amount. When will the Minister commit to taking a decision on this matter?

Baroness Altmann: My Lords, these issues are complex, involving significant sums of money. They would potentially impose significant retrospective costs on pension schemes that are already struggling with large deficits and, if closed, would not have a means of recouping the costs from members in future. It would be very difficult to make newly retrospective changes and difficult to make changes to some schemes but not others. That is why the Government must consider these issues most carefully.

Baroness Symons of Vernham Dean (Lab): My Lords, in her initial Answer the Minister said that the Government were absolutely committed to equality. Everything she has said subsequently has mitigated that absolute statement. Will she please reiterate: are the Government absolutely committed on this issue, or are they going to equivocate in the ways that her answers have so far done?

Baroness Altmann: My Lords, the Government are absolutely committed to equality, and all accruals from now are on an absolutely equal basis. However, past funding of pension schemes would not have built in the cost estimates for equality. That is why we have to be careful and consider the issue most carefully before imposing a cost of £3.3 billion on these pension schemes. The cost for public sector pension schemes would be £2.9 billion, which has not been funded, and the cost for private sector schemes would be £400 million, which has also not been funded. Finding that kind of money when employers are already struggling is not straightforward.

Lord Bradley (Lab): My Lords, the Minister said in the *Sunday Times* last November:

"There has been so much unfairness in pensions over the years. Sadly, this is another unfairness, and should not be permitted these days".

In the light of that, are the Government going to bring forward proposals quickly to match those words? What provision have they now made to meet the costs of addressing restrictions on survivor benefit payments if that decision is lifted?

Baroness Altmann: The current treatment has been challenged in the courts and been found to be lawful. If the Government had a ready source of funding, the issue would have been dealt with by now. These issues are complex and are still being considered. We will issue our response in due course.

Health: Multiple Pregnancy

Question

2.47 pm

Asked by ***Baroness Hodgson of Abinger***

To ask Her Majesty's Government what plans they have to improve care and deliver better outcomes for mothers and children in cases of multiple pregnancy.

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con): My Lords, all women should receive excellent maternity care that focuses on the best outcome for them and their babies. The Department of Health is working with key partners, including Sands, NHS England and the royal colleges to deliver a programme to prevent stillbirths and neonatal deaths, which are a significant risk in multiple pregnancies. Furthermore, the independent national maternity review will assess current provision and consider how services should be safely developed to meet women's needs.

Baroness Hodgson of Abinger (Con): The Twins & Multiple Births Association, Tamba, states that multiple pregnancies make up 3% of all births but account for more than 7% of stillbirths and 14% of neonatal deaths. Clinical guidance and quality standards have been published by NICE in recent years, but Tamba has found that fewer than 20% of maternity units have implemented the guidance in full. A particular concern is that only 18% of units have specialist midwives as recommended. Although there are figures on neonatal death and stillbirth, there are no figures on damage in multiple births, which I expect will be much higher. As we know, just a small interruption in oxygen supply can adversely affect children in the long term. Considering that since 2005 the number of reported patient safety incidents has risen by 419%, does the Minister agree that this is a worrying trend? What is being done to address this?

Lord Prior of Brampton: My Lords, the level of stillbirths in England is too high, whether from multiple or single births. The MBRRACE-UK report indicates that if we had the same rates as in Sweden or Norway, many more children would survive in this country. One of the problems that the noble Baroness puts her finger on is that the tariff system may discourage some neonatal units from referring cases to specialist referral units.

Lord Winston (Lab): My Lords, the large number of multiple births in this country is very largely due—probably half due—to the practice of in vitro fertilisation. A very large number of patients are coming into this country having been referred to clinics overseas that do not accept the regulations on limiting embryo transfer. Does the Minister have figures on this and is there something that the Government can do to stop this practice, which is seriously increasing the cost of perinatal care and the tragedy for mothers?

Lord Prior of Brampton: The Government may have figures on this. I do not have figures here today, but I shall certainly endeavour to find them as soon as I can and perhaps follow it up with the noble Lord in a meeting outside this House.

Baroness Walmsley (LD): My Lords, given that mothers expecting multiple births need the expert care of qualified midwives and yet we have quite a shortage, and given that the Government are considering giving golden hellos to GPs, what about midwives?

Lord Prior of Brampton: My Lords, we are not considering golden hellos to midwives. There are, I think, some 6,400 extra midwives in training at the moment and some 2,100 more midwives today than there were in 2010.

Lord Bradley (Lab): My Lords, does the Minister accept that multiple births can sometimes require additional emotional support for mothers? Will he therefore ensure that some of the extra resources allocated to child mental health services are targeted at perinatal healthcare to ensure that all maternity services have access to a perinatal mental health professional as recommended by NICE guidelines?

Lord Prior of Brampton: The NICE guidelines for mothers expecting twins or more have an enhanced pathway as well, in which there will be a specialist named obstetrician and a mental health specialist. The Government have committed an extra £75 million over the next five years to increase the availability of mental health expertise to women who have multiple births.

The Earl of Listowel (CB): Does not the Minister take pride in the fact that his Government—or the coalition Government—were so successful in recruiting many more health visitors, so that vulnerable families such as these get the support that they need?

Lord Prior of Brampton: Yes, I believe that under the coalition Government an extra 4,000 health visitors were recruited, and they are very important.

National Institute for Health and Care Excellence

Question

2.52 pm

Asked by ***Lord Hunt of Kings Heath***

To ask Her Majesty's Government why the National Institute for Health and Care Excellence was asked to suspend its work on safe staffing guidelines regarding nurses.

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con): The Government are committed to supporting NHS trusts to put in place sustained safe staffing by using their resources as effectively as possible for patients. The existing National Institute for Health and Care Excellence guidance on maternity settings and acute in-patient wards will continue to be used by NHS trusts. NHS England, working with NICE and other national organisations, will continue with this work in other areas of care and other healthcare professional groups.

Lord Hunt of Kings Heath (Lab): I am grateful to the noble Lord, but that does not explain why NHS England put pressure on NICE to stop working on guidelines on safe staffing levels, despite the recommendation of Sir Robert Francis following the Mid Staffordshire inquiry. Was it because NHS England was no longer prepared to fund the implications of such work? Given that NICE has now decided to continue with work on A&E guidelines, will the Minister assure me that the Government will insist that the NHS implements those guidelines?

Lord Prior of Brampton: The noble Lord is right that the responsibility for safe staffing is now with NHS England. It will take into account any advice given by NICE, whose guidelines for acute in-patient wards and maternity services still stand. The main reason why the responsibility has been transferred to NHS England has nothing to do with funding. It has to do with the fact that the new models of care, such as the new emergency care vanguards, are much broader than just A&E; therefore, we need to take into account other factors.

Lord Willis of Knaresborough (LD): My Lords, this Answer does not empower any validation at all, unless we have criteria by which all trusts could be judged. We have the safer nursing care tool, which was produced in Sheffield and London and validated by Leeds University; it has been adopted by NICE and rolled out by the Shelford Group and other major trusts. This is a tool that would give all acute trusts the ability to judge safe staffing ratios based on acuity and patient need. Can the Minister give this House an assurance that that will be mandated to all acute trusts and then rolled out elsewhere?

Lord Prior of Brampton: I think it might be worth while for the House if I read out four lines from the NICE guidance on safe staffing:

"There is no single nursing staff-to-patient ratio that can be applied across the whole range of wards to safely meet patients' nursing needs. Each ward has to determine its nursing staff requirements to ensure safe patient care. This guideline therefore makes recommendations about the factors that should be systematically assessed at ward level to determine the nursing staff establishment".

I read out that paragraph because it is important to realise that every ward is different. Where there are tools to help assess the acuity of patients in wards, those tools will be used. I do not think we are planning to mandate any particular tool at this time.

Baroness Gardner of Parkes (Con): Twice I have raised with the Minister the question of a different standard of training, particularly that of entrants to nurse training. We face this great shortage. He has replied to say that the Government have it in mind to introduce such a thing. Will he tell us more about what they are proposing and when?

Lord Prior of Brampton: I am sorry—I did not quite understand the question. I realise that I cannot ask my noble friend to repeat it, so I wonder whether I could pick it up with her outside the House.

Baroness Walmsley (LD): Is the Minister aware that in Wales 12% of NHS staff have made complaints about staffing levels in the past few years? Will the Minister join me in welcoming the fact that the Labour Government of Wales will be held to account for that next year?

Lord Prior of Brampton: From what I understand, the problems in Wales mean that there is a lot more for the Government to be held to account for there.

The Countess of Mar (CB): My Lords, from personal observation from being in hospital, nurses spend a awful lot of time behind a desk ticking boxes when it

[The Countess of Mar]
would be much more helpful and better for patients if they could deal with patients more. Is there any way of alleviating the need to fill in boxes so that they can look after patients? Can they cut the paperwork?

Lord Prior of Brampton: The noble Countess makes a very insightful point. Non-productive time—by which I mean the time when nurses are not dealing directly with patients—varies considerably, but the average seems to be about 20% to 25% of their time. The better-organised wards—which takes me back to an earlier point—where there is strong local leadership from the ward sister will be organised in such a way that staff will spend much more time with patients. I agree entirely with the noble Countess's point.

Lord Swinfen (Con): My Lords, is part of the problem due to the specialisation of nurses? Are far too many of them being trained only as specialists so that they are therefore unable to be moved from one part of a hospital to another? Would more general training be better?

Lord Prior of Brampton: I do not think that is a problem. In many ways, in acute hospitals we lack generalists. That is true of consultants as well of nurses. That is actually my noble friend's point. Possibly there are too many specialists, but on a cardiac ward or a specialist acute ward you need specialist nurses who know how to operate the equipment as well as how to look after the patient. You need a good balance between the two but, if anything, I fear we have, as my noble friend said, become too specialist and insufficiently generalist.

Lord Roberts of Llandudno (LD): My Lords, what is the Minister's opinion of the Government's decision to deport nurses from overseas who do not reach the £35,000 a year income level within five years?

Lord Prior of Brampton: The noble Lord raises a good point. We need to train as many of our own nurses as possible. There will be times when we get those calculations wrong and it will be necessary to bring in nurses from overseas. That is not a desirable outcome for many reasons, which there is not time to go into today. We need to train more ourselves.

Lord Hunt of Kings Heath (Lab): My Lords, will the Minister have another go at the Question? I still fail to understand why an independent body, NICE, was instructed by NHS England to discontinue work on safe staffing guidelines. What on earth caused NHS England to do that?

Lord Prior of Brampton: NICE has not been instructed to cease its work on safe staffing standards; on the contrary, it has been asked by NHS England to provide it with appropriate guidance.

Baroness Meacher (CB): My Lords, the noble Countess rightly raised the amount of time that nurses spend filling in forms and ticking boxes. Is the Minister aware that much of this work comes from the rather microregulatory requirements of the regulatory bodies, and indeed NHS London? There are some very precise measurements, and if those were monitored carefully government Ministers and NHS England would know well whether services were being managed properly. Would the Minister consider revisiting the degree of microregulation of our health services?

Lord Prior of Brampton: I am not entirely convinced by the argument about regulation when it comes to managing wards. My own observation is that when you have strong leadership from strong ward sisters, ward managers or charge nurses, many of the problems that we identify seem to disappear and there is very high staff morale, low absenteeism and little use of agency staffing. So much comes down to local leadership, and sometimes regulation is used as a scapegoat.

Baroness Brinton (LD): My Lords, given that everyone accepts that the new safer staffing guidelines will require more nurses, what will the Government and Health Education England do to reduce the number of nurses who do not qualify from their training, which is currently running at about 20%?

Lord Prior of Brampton: That is a very high figure. It is quite revealing that most of the people drop out in their first placement, and it behoves universities and Health Education England to ensure that they are recruiting new nurses who have done some work in a care home or hospital so that they know what the realities and practicalities of being a nurse are.

Children's Centres

Question

3.01 pm

Asked by ***Baroness Massey of Darwen***

To ask Her Majesty's Government how many children's centres have closed in the last three years, how many are likely to close during the next year, and what assessment they have made of the impact of such future closures on families.

The Parliamentary Under-Secretary of State, Department for Education (Lord Nash) (Con): My Lords, since 2013, 214 children's centres have closed, and from 2010, 705 additional sites have opened. Any closures come from local authorities merging centres to allow services to be delivered more efficiently. What matters most is not the number of buildings but how families benefit from services, and a record number of more than 1 million parents are doing so. The department does not collect information on the number of anticipated closures but expects local authorities to ensure that they meet the needs of local families. This week we will announce a consultation on how we can maximise the impact of children's centres to ensure that they continue to help the families most in need.

Baroness Massey of Darwen (Lab): I thank the Minister for that response and welcome the consultation, but I am sure that he would agree that it is not just the number of parents and children attending that matters but the depth and breadth of the quality of children's centres, which is falling, as are the numbers being

opened. Is he aware of a recent report by the National Children's Bureau and the Child Poverty Action Group on children's centres, which said that the early intervention grant to local authorities has dropped by 55% since 2010? Can he assure me that the Government are still keen to support parents and children?

Lord Nash: I am aware of the report that the noble Baroness refers to. The overall pot for early intervention has grown to £2.5 billion, and we give councils the freedom to use their funds in the way that will best meet the needs of their community. I was delighted to see that the report referred to by the noble Baroness recommends that local authorities should share effective approaches, because it is about innovation. We have seen quite a lot of that around the country. Staffordshire, for instance, has introduced family hubs; Hertfordshire has introduced Family Matters meetings; in Islington they have a First 21 Months programme, which improves communication between children's centres, GPs, midwives and health visitors; and in Newcastle they have introduced community family hubs.

Lord Storey (LD): The Minister will be aware of the evaluation of children's centres being carried out by his own department and Oxford University. That report has shown that the most valued services after play and learning are those related to health—health visitors, midwives and clinics. Is it possible for him to talk to his colleague Minister about how he can ensure that these much-needed services are provided in the most disadvantaged areas so that it will not be as much of a lottery as to whether they are there or not?

Lord Nash: My noble friend Lord Prior has already given an excellent answer in which he mentioned the 10% increase in midwives and the 4,000 increase in health visitors. Of course, from September of this year public health commissioning for children under five will go to local authorities; I am sure that that will help the matter.

Lord Sutherland of Houndwood (CB): My Lords, the Minister rightly stressed the role of children's centres in dealing with the special needs of families and children. Will the same principle of targeting inform the Government's plans for rolling out the extra 15 free hours of childcare?

Lord Nash: We will most definitely take these matters into account in our consultation. It is very important that all families have access to high-quality, flexible and affordable childcare, particularly parents with children who have special needs or are disabled.

Lord Touhig (Lab): My Lords, every farmer in the House will know the phrase, "Do not eat the seed-corn". If you do, you will survive this year, but next year you will starve, because nothing new has been planted. That is just what the Government are doing by cutting funding to children's centres: they are eating the seed-corn. For short-term financial gain they are storing up problems for the future. The closure of children's centres is a malign act and, frankly, very stupid. Therefore—patience, patience; the noble Lord's time will come—can the Minister say whether the Government will accept that investing in our children's future by funding children's centres should be a national policy objective, not left to the whims and vagaries of local councils, many of which have huge financial budgetary problems?

Lord Nash: I accept the importance of the matter, and I was delighted to see the ECCE survey, which showed that 98% of parents were "happy" or "very happy" with the services provided by their children's centre. I know that the Labour Party likes to hark back to a golden age of Sure Start, but in 2009 the National Audit Office reported that children's centres then were failing to reduce inequality and many were unviable, and Ofsted reported at the same time that half were not reaching out to vulnerable families. It is essential that we reach out to vulnerable families and that the facilities are tailored in the most flexible way to reach the families who need them.

The Earl of Listowel (CB): My Lords, can the Minister say what targeted services and support are offered to homeless families who may not be able to access children's centres?

Lord Nash: Of course I empathise with the practical challenges that such families face. Housing authorities and children's services work together locally to ensure that the needs of children in homeless families are met. This should include the role that local children's centres can play in supporting such families. The Housing Act places a duty on authorities to co-operate with social services in situations where children may be made homeless intentionally or may be threatened with being made homeless intentionally.

Baroness Turner of Camden (Lab): My Lords, what arrangements have the Government made for regular reporting back by local authorities about the provision of children's centres? At the moment there seem to be no national arrangements made by government for reporting back on what is provided.

Lord Nash: We will be strengthening the duty on local authorities to report on childcare provision in the Childcare Bill.

Cities and Local Government Devolution Bill [HL]

Report (1st Day)

3.08 pm

Relevant documents: 1st, 2nd and 3rd Reports from the Delegated Powers Committee

Amendment 1

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

1: Before Clause 1, insert the following new Clause—

"Devolution: annual report

(1) The Secretary of State must lay before each House of Parliament an annual report about devolution for all areas within England pursuant to the provisions of this Act.

(2) The report shall include information on—

(a) the areas of the country where agreements have been reached;

(b) the areas of the country where proposals have been received by the Secretary of State and negotiations have taken place but agreement has not yet been reached;

(c) additional financial resources and public functions which have been devolved as a result of agreements; and

(d) the extent to which consideration has been given by a Minister of the Crown to the principle under section (Devolution statements) that powers should be devolved to combined authorities or the most appropriate local level except where those powers can more effectively be exercised by central government.

(3) The annual report shall be laid before each House of Parliament as soon as practicable after 31 March each year."

Lord McKenzie of Luton (Lab): My Lords, I start by declaring my interest as a vice-president of the LGA. I shall speak also to Amendment 2, which we consider to be consequential. In moving this amendment, I welcome the support of the noble Lord, Lord Shipley, and the LGA.

Throughout our consideration of the Bill there has been an explicit recognition that it is an enabling framework Bill. Specifically, it could enable, by order, the transfer of any function of any public authority to a combined authority, and for the mayoral combined authorities some or all those functions could be exercisable only by a directly elected mayor. The scope has been widened by government amendments relating to single authorities. We support those amendments and will be considering them later today. That is being supplemented by a fast-track process and by relaxations on what can qualify as a combined authority.

Our approach to the Bill has been supportive of its thrust—not to seek to stifle the process of devolution and the innovation that it can engender but to endeavour to understand the parameters of the Government's willingness to devolve, to ensure that devolution is fairly available to local authorities across England and to make sure that the approach is comprehensive. As we have sought more detail, the Government have resisted being prescriptive, and the answer has always been to the effect that they stand prepared to listen to any propositions from local authorities and will evaluate them on a case-by-case basis. Nothing is seemingly off the table, there are no constraints on the capacity of the Government to respond, there is no programme with priorities, everything is possible in the best of all possible worlds, and deals are done behind closed doors with announcements at politically propitious moments.

When we sought to put some structure in the process and to publish a forward strategy, it was suggested by the noble Lords, Lord Heseltine and Lord Bichard, that this would give central government an opportunity and leverage to claw back some of the powers that they are about to lose. Therefore, we have moderated our approach, as Amendment 2 in particular will indicate.

Hitherto, the only parliamentary oversight on offer has been the affirmative process for the relevant orders and the debate in both Houses of Parliament. We know from experience that this gives restricted effective oversight. The commitment to expand the process with individual reports covering matters laid down in government Amendment 33 and related expanded provisions, is to be welcomed, but that covers only part of what is required. It addresses individual deals at the time they are made, and, when we come to discuss these later, we will explain that this will not necessarily be comprehensive. As we have seen in the case of Manchester, devolution arrangements can evolve, and not all components would require a Clause 6 order—the trigger for the Government's additional report. Much of the proposed health devolution in the case of Greater Manchester does not appear to need the provisions in the Bill at all.

Therefore, the amendment calls for an overall annual report on the progress of the devolution: agreements reached, work in progress, functions transferred and resources devolved. Each year, such a report would provide the opportunity to take stock of progress across the country. It would be an opportunity to see whether and how devolution was working for different types of authorities—the counties as well as the metro cities—how devolution was shaping up in rural and coastal areas, whether all relevant authorities had been able to take advantage of similar functions, and whether devolved funding was fair. It could be a driver of best practice and would serve as a bulwark against those who might be tempted to linger in the slow lane. The annual report would be part of the process of holding government, central and local, to account in that it would shine a spotlight on them.

It would also be an opportunity to see progress on the devolution statements referred to in Amendment 2. This amendment was inspired by some of the comments of the noble Lord, Lord Bichard, in Committee, when he commented on the propensity of government—civil servants and politicians—to seek to constrain the process of devolution. The concern expressed was that they would seek to claw back powers through other legislation; that as we focus on this Bill there will be moves in that other legislation to prevent real devolution happening.

It was suggested that each piece of primary legislation coming before Parliament should have a devolution test—a devolution litmus test, if you like. The Minister who has introduced a Bill in either House should be required to make a devolution statement before Second Reading to the effect that the provisions in the Bill are compatible with the principles of devolving power to the most appropriate level. A statement itself would not, of course, directly trigger a process of devolution but would concentrate the minds of government and be a reminder that if the Government are serious about devolution, it should be the collective responsibility of central and local government and of all departments.

I hope the Government will accept Amendment 1 and the consequential Amendment 2 as being entirely supportive of their devolution agenda and a positive contribution to the Bill. I beg to move.

3.15 pm

Lord Shipley (LD): My Lords, my name appears on both Amendments 1 and 2 and we give our full support to both. The amendments require an annual report on the progress of devolution, and require that Ministers consider when they introduce a Bill whether that legislation

is compatible with the principle that decisions should be made at the most local level possible. Both amendments seem to us to be entirely reasonable.

In Committee, we moved an amendment to create an independent panel that would review proposals for devolution and assess the Government's record. We now have this amendment, which achieves broadly the same objective. It is important because devolution must not be unnecessarily piecemeal—that is, it needs to be clear what responsibilities are being devolved, or not devolved, to whom, and why. That, in turn, will help to define the criteria that the Government are pursuing—and that will help other authorities to frame their own proposals.

I agree with the noble Lord, Lord McKenzie of Luton, that the point which the noble Lord, Lord Bichard, raised in Committee on Amendment 2 is a very important statement of principle and I am glad that it has been included in this group in the form of that amendment.

I hope the Minister will take seriously the suggestion of the noble Lord, Lord McKenzie, that the Government should accept the amendment, which is entirely reasonable. I declare again my vice-presidency of the Local Government Association.

Baroness Hollis of Heigham (Lab): My Lords, I, too, support my noble friend's amendment. This is a very welcome Bill and we are delighted that the Minister—together with her boss, the Secretary of State—is so committed to localist values. That is great, and it is very welcome.

However, one of the problems that we found in Committee is that—because of the desirability that the energy in the Bill should come from the bottom up, from localism and from local authorities trying to establish what works best in their patch—it will be very difficult for those of us outside the great authorities to know what will or will not be acceptable to the Secretary of State as future patterns for combined authorities. No general principles of any sort are laid down in the Bill—anything may go, or nothing may go. We do not want to descend into ad hocery, and we do not want to descend into blueprints, but we do need to learn from what the Secretary of State is supportive of in other bids so that those that follow in the wake of those bids can devise a structure of combined authorities that are more likely not to waste our time, waste resources or raise false hopes in our local taxpayers but will command the support and, I hope, the assent of the Secretary of State as the way forward.

If the Minister is not willing to do this—and she has very good reasons not to be willing—and lay down principles by which local authorities may guide their submissions to the Secretary of State, it will be important for the rest of us to learn through example which submissions have been successful with the Secretary of State so that we can model ourselves on the best practice that he has commended. It seems to me that this amendment is entirely in the spirit of what the Minister wants and what the Secretary of State should follow. It is the route forward to combine the best of localism and a bottom-up approach, while avoiding a straitjacket of top-down structures and allowing us to learn from each other what is going to be best practice in the eyes of the Secretary of State. I hope very much that the Minister can support something that seems very strongly to support the path that she wants to go down and we want her to go down.

Lord Kerslake (CB): My Lords, I declare my interest as president of the Local Government Association.

Noble Lords will know from my maiden speech my passionate commitment to devolution and support for this Bill. It is because I support devolution that I think we should support Amendments 1 and 2 today. An annual report and a devolution statement seem to me to be entirely practical and sensible additions that will further devolution, not hinder it.

The exam question before us is: why, given that all three of the main political parties have supported devolution for as long as I can remember, has progress been so slow and uncertain? Here are four quick reasons. The first is the silo nature of central government. Departments think "police, health", but they never think place. Secondly, devolution is inherently disruptive. I recall a senior official saying to me that he was very supportive of the city and local government deals provided they did not get in the way of delivering his current programmes. I did say that that was the entire point. Thirdly, there is a dislike of difference in this country, and devolution is different in different places. Fourthly, there is often nervousness at local level, particularly in voluntary and community organisations, that this will be a cosy deal between central and local government that will leave them on the sidelines.

What is proposed here is a powerful antidote to those very powerful pressures and is designed to keep the Government to their intent as set out in the Bill. If agreed, these amendments will advocate and ensure transparency and reduce the risk of one step forwards, two steps backwards, which has bedevilled the devolution debate. Indeed, the Secretary of State, Greg Clark, produced something very similar to annual reports on progress in departments in the previous Government. We should support both amendments as practical and sensible moves that will keep the Government to their intent and advance the cause of devolution.

Lord Warner (Lab): My Lords, I, too, support these amendments and very much echo the points made by the noble Lord in his last remarks. There is a silo mentality in Whitehall and it often works rather badly against what is best for place. These amendments will, in my view, help the Government progress the objectives of the Bill. I know that we are going to have a debate on Wednesday on some NHS issues around this, but Amendment 1 will help with the laggards and those who are uncertain where the health functions make sense in this legislation. It would be good to know, across the country, when particular services have been led into a devolved state and when they have not. We need to be able to capture on a regular basis the progress in this area across the range of functions it may be possible to devolve. I fully support these amendments and hope that the Government will as well.

Lord Liddle (Lab): My Lords, I add my voice in support of this amendment. I declare an interest as a member of Cumbria County Council. In that part of the north of the north, we hope that effective devolution can be extended beyond the major cities.

Some noble Lords may remember that, in Committee, I made a strong case for action to try to promote unitary authority or authorities in Cumbria. I still believe that to be necessary, as do a large proportion of people in Cumbria, but there are obstacles. We would have more effective local government if that came about, more democratically accountable local government, because responsibilities would be clearer. We would be in a much better position to exploit the potential for economic development, in particular in our part of the north of the north the billions of pounds of investment in both the new Trident missiles in Barrow and the new nuclear power station on the west coast of Cumbria. Those investments are either straight from the taxpayer or underwritten by various types of taxpayer guarantee. The potential to have effective planning around them depends on us being able to sort out our local government structure.

I shall not move on Report the amendments that I moved in Committee. I was grateful to be able to have a chat about the problem with the Minister and I think that we in general share the objectives. However, this amendment, which tries to maintain the pressure on government—it is government regardless of political party—to push ahead with devolution, is desirable. In our case, I want the Government to work with local authority leaders in our area to see what can be done. The Minister indicated that she might along with the noble Lord, Lord Heseltine, be prepared to meet the local leadership. I hope that, in the light of that, the Government may be able to invite the authorities to present proposals for reorganisation, as they are enabled to do under a previous Act of Parliament, and that the department could play an active role in trying to establish consensus in the county. This is a vital point not just in terms of economic efficiency, but with the lack of trust that there is in politics now we have to apply the principle of subsidiarity and get decision-making as close to the people as we can. That would do a lot for the democratic health of the nation. I hope that the Minister will bear these points in mind.

Lord Woolmer of Leeds (Lab): My Lords, I, too, support the amendments, but for one additional reason: that a great deal of the implementation of the Bill will depend on secondary legislation and a series of deals, each one of which, as I understand it, will be set out and agreed by both Houses in secondary legislation. As there will be a range of such deals, concerned with different parts of the country and involving different arrangements, it is enormously important that this is pulled together each year so that Parliament as well as the public and the press can understand how it is progressing and how it all makes sense put together. Individual pieces of secondary legislation are fine; it is about understanding the pattern that emerges. Rather than it being simply a series of individual deals, we should look at what they add up to. Do they add up to a pattern of devolution that makes sense across the country? From the point of view of Parliament, to have an annual stocktaking on that element would be extremely helpful.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, I thank all noble Lords who have made points on these amendments. I think that we are seeking the same ends but perhaps by a slightly different approach, as I will outline.

Amendment 1 would insert a new clause which places a statutory duty on the Secretary of State to provide annual reports to Parliament setting out information about devolution deals which have been agreed and those in discussion. Amendment 2 would add a new requirement that all Bills are to be accompanied by a "devolution statement". Noble Lords have heard me say a number of times that the Government are open to discussing devolution proposals with all places. We have been clear that our approach is for areas to have conversations with us about the powers and budgets they want to be devolved to them so that they can grow their local economies and improve the competitiveness and productivity of the area. The importance of this cannot be overstated. As the Chancellor said in the Budget, the great economic challenge we face is on productivity. It is by addressing that challenge that we will ensure that Britain is what we want it to be—the most prosperous major economy in the world by the 2030s. Devolution deals are one of the most important levers for generating growth and delivering this aim.

3.30 pm

However, notwithstanding the importance of devolution deals, a new statutory requirement of an annual report on devolution statements is not the right way forward. The focus should not be on the process but on the substance of implementing the devolution deals in our major cities, our counties and across the country. The Bill enables the implementation of such bespoke devolution deals and the nature of these deals will be set out individually in orders to implement changes in respect of each proposal approved and brought forward by the Secretary of State. Therefore they will be available for both Houses of Parliament to see and consider under the affirmative procedure.

In Committee, noble Lords expressed concern that Parliament should be fully informed on the nature of the proposals. We have considered carefully those points and agree that we could strengthen and extend the information available to Parliament. Government Amendments 33 and 70, which I will move later in the proceedings, seek to do this. They provide that when the Secretary of State lays a draft order in Parliament, in addition to the order's Explanatory Memorandum he will also lay a report explaining what the order does and why he proposes to make it. These reports, together with the Explanatory Memorandums, will ensure that Parliament will have before it all that it needs to consider the orders implementing devolution deals and governance changes. The bespoke approach in my amendments is preferable to the approach in Amendment 1 in terms of increasing genuine transparency around the devolution deals while enabling also the bespoke

deals to be agreed with different places, rather than a template or a selection from a list of functions.

Amendment 2 would require a statement to be made for each and every Bill laid before Parliament as to its compatibility with the principle that powers should be devolved to local areas unless they could be more effectively exercised by central government. Whatever the superficial attractions of such an approach, in practice it would descend into another tick-box process. It risks being a distraction from delivering the substance of real bespoke deals in places. Accordingly, such a requirement is unnecessary. If Members of either House feel that the Government are being inconsistent in their approach, they will have the opportunity to raise the issue with them.

None of this is to deny the importance of devolution and what it means for this country. I hope we can all agree on that. I hope that we can all agree that the devolution of powers and budgets to areas across the country should reflect what the areas themselves want. This would be a major reversal of the decades of centralisation—indeed, a century and a half—which we all realise has not served us particularly well as a country.

Turning to specific points, the noble Lord, Lord McKenzie, questioned whether Greater Manchester is using Clause 6 and whether in its deal it will draw on its powers. The clause enables powers to be given to a combined authority which are exercised by a public authority in a different area. Hence the clause could give Greater Manchester the powers on strategic planning which the GLA currently has. Giving Greater Manchester such powers is part of the deal.

The noble Baroness, Lady Hollis, talked about the importance of annual statements so that we can learn from best practice, how deals have worked, and what principles were needed to back them up. Obviously, Manchester is well on the way, but as the Chancellor announced last week, Sheffield, Leeds and Liverpool are in talks with the Secretary of State. I also understand that as of last week Norwich is now in talks, which is very good news indeed. It will enable Members of both Houses as well as the councils at large to see what has been agreed and on what basis, and to learn as they go along. Indeed, I hope that Cornwall will come up with some exciting proposals soon.

The noble Baroness also talked about not setting principles on devolution because it is a waste of time. We do not intend to waste anyone's time—

Baroness Hollis of Heigham: I hope that the noble Baroness will forgive me, but I think that she has slightly misunderstood me. I accept for the sake of this argument her position—that the Secretary of State does not want to lay down principles—but what you actually have to do is deduce from the examples he has accepted which principles and action he is motivated by. That is best done in an annual statement to bring them together, which may or may not be accompanied by any contemplation that the Secretary of State may have had about the offerings. That is the way we learn from each other. I worry that small seaside towns do not have the resources of Greater Manchester to do the sort of heavy lifting that this work might otherwise require.

Baroness Williams of Trafford: I thank the noble Baroness for her intervention. The process undergone by Greater Manchester, Norwich, Cornwall and other places can act as a learning tool for small seaside towns which I agree absolutely may not, in the early stages, have the capacity or capability to think about what might be appropriate. We learn from others and this is an important process.

The noble Lord, Lord Liddle, referred to our discussion on Cumbria. Either myself or my noble friend Lord Heseltine—or indeed both of us if we can manage to get our diaries free on the same day—are looking forward to meeting with Cumbrian representatives to discuss what I thought were some very constructive points raised by the noble Lord in the meeting.

The noble Lord, Lord Kerslake, talked about the four reasons why devolution is not pursued. We understand and share the noble Lord's analysis of why devolution can be slow or non-existent, and he gave a very pertinent example which I recognise from my local government days. However, where we differ is that I doubt whether these proposals for annual reports and statements are an effective means of challenging either silo working in Whitehall or the disruption, fear of difference and nervousness at the local level. The strong drive given by the Bill, backed by the early devolution of major powers and budgets, thus creating a whole culture of devolution, is the best way forward, not annual reports which may themselves become prescriptive, or at least perceived by local areas as a direction from the Secretary of State. Given those points, I hope that the noble Lord will feel happy to withdraw his amendment.

Lord McKenzie of Luton: My Lords, I thank all noble Lords who have spoken in support of the two amendments before us, with of course the exception of the Minister. We heard from the noble Lord, Lord Shipley, about the importance of not doing things piecemeal, and the pertinent point, reiterated by my noble friend Lady Hollis, that if no general principles are laid down, an annual report would at least help smaller authorities to understand what the parameters are in practice. We also heard the passionate commitment of the noble Lord, Lord Kerslake, to the Bill, but he described these amendments as practical and sensible and a powerful antidote to the prospect of government from the centre drawing back the thrust of devolution. My noble friend Lord Warner talked about help with laggards, and said that the amendments would help us to understand the pattern. My noble friend Lord Liddle does a great selling job for Cumbria, which I hope it appreciates.

I say to the Minister that none of this would stop the "come and have a conversation" approach that the Government are pursuing. If anything, it should aid that process because it would alert those who have not yet engaged to the prospects—what is actually going on around the scene. This is a very positive contribution. Of course, nothing in these amendments is in conflict with Amendments 33 and 70, which will be moved in due course. Indeed, we can see those reports as a component of the annual report, but not sufficient.

I hope I did not say that Greater Manchester would not need to rely on Clause 6 at all. My point was that

[Lord McKenzie of Luton]

not all of the deal is dependent on the use of Clause 6. If the extra reporting that the noble Baroness is talking about is tied to that Clause 6 order process, it would not necessarily embrace all of what is going on in practice.

I had hoped that we could agree on this. The amendments are genuinely meant to help the Bill but the Government have made their position clear. On the basis that Amendment 2 is consequential on Amendment 1, I certainly would like to test the opinion of the House on Amendment 1.

3.41 pm

Division on Amendment 1

Contents 219; Not-Contents 162.

Amendment 1 agreed.

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3.55 pm

Amendment 2

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

2: Before Clause 1, insert the following new Clause—

"Devolution statements

(1) A Minister of the Crown who has introduced a Bill in either House of Parliament must, before the second reading of the Bill, make a devolution statement to the effect that in his view the provisions of the Bill are compatible with the principle that powers should be devolved to combined authorities or the most appropriate local level except where those powers can more effectively be exercised by central government.

(2) The statement must be in writing and be published in such a manner as the Minister making it considers appropriate."

Lord McKenzie of Luton: My Lords, I move this formally on the basis that it is accepted as consequential. If it is not, I would like to test the opinion of the House.

The Lord Speaker (Baroness D'Souza): The Question is that Amendment 2 be agreed to. As many as are of that opinion will say "Content", the contrary "Not Content". The Contents have it.

Lord Trefgarne (Con): There were clear voices saying "Not Content". There should be a Division.

The Lord Speaker: I beg your pardon, my Lords. I did not hear any "Not Content" voices. Let me put the Question again. The Question is that Amendment 2 be agreed to—as many as are of that opinion will say "Content", the contrary "Not Content".

Noble Lords: Not Content.

The Lord Speaker: Clear the Bar.

3.56 pm

Division on Amendment 2

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Amendment 2 agreed.

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4.11 pm

Clause 1: Power to provide for an elected mayor

Amendment 3

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

3: Clause 1, page 1, line 8, at end insert—

"( ) An order under subsection (1) shall not be used as a condition for agreeing to the transfer of local authority or public authority functions."

Lord McKenzie of Luton: My Lords, in moving Amendment 3, I shall speak also to Amendment 4 when I wind up, after we have heard from the noble Lord, Lord Shipley. Amendment 3 would prevent the order-making power of the Secretary of State for the creation of a directly elected mayor of a combined authority being used as a condition for agreeing to transfers of local authority or public authority functions to such an authority. I acknowledge straightaway that the order-making power generally becomes available only if the combined authority has made a proposal or consented to an elected mayor, but that this proposal or consent may not be freely made if it is clear in advance that the Government will insist on this as part of the price, or the price, of a deal.

In last week's Budget speech, the Chancellor of the Exchequer was clear that the expanded devolution for Greater Manchester and the work in progress with Sheffield and Liverpool city regions and Leeds and West Yorkshire for far-reaching devolution of power was in return for the creation of directly elected mayors. It seems that the door is open for some devolution without having an elected mayor, and we discussed in Committee on 22 June the view expressed by the noble Baroness's colleague, James Wharton, about there being no necessity to insist on having a mayor when something less—a Manchester-type deal—is preferred. However, we never received an answer about what "something less" amounted to, and perhaps the Minister could help us further today, as it is important that we get this on the record.

This is not an anti-elected mayor amendment. It allows that combined authorities should not have to seek an elected mayor when they have alternative models of governance and leadership which they consider best suits their circumstances. Of course, government would be able to evaluate these models as part of the devolution process. Currently, there are a variety of elected mayors of varying political persuasions—Lib Dem, Labour, Conservative and independent—in varying types of authority, including London and regional boroughs, unitary met boroughs and non-met districts. They are overwhelmingly men, with some elections preceded by referendums and some not. Of the cities required to have mayoral referendums in 2012, only Bristol agreed, but it now wishes to change its mind and is blocked from doing so—which is why we support Amendment 74 in the name of the noble Baroness, Lady Janke. Indeed, it is unfortunate that the Bill perpetuates this situation and denies a combined authority the right to revoke its decision about a directly elected mayor without disbanding the authority.

We know that there are those who are strongly supportive of the directly elected mayor model in all parties—certainly in mine—but there are those who are strongly opposed. Those in favour would argue that the scale of what exists in England at present, with the exception of London, does not particularly reflect the role envisaged for the mayor under this Bill. This may be so. We accept that it needs individuals of integrity, experience and vision who can speak with authority and hold their own with their counterparts domestically and internationally. Not only elected mayors can fulfil this role, which is why we consider that individual combined authorities should have the opportunity to bring forward alternative models.

It seems somewhat strange that the Government are rightly prepared to pass responsibility, power and resources on a very substantial scale to combined authorities and trust them to deliver on vital parts of the Government's agenda, especially the need for growth, yet seek to straitjacket them on the issue of the directly elected mayor. It seems out of balance with the whole thrust of what devolution is all about. The whole approach is characterised by the Government as a willingness and eagerness to listen to what local authorities propose and to respond accordingly. The insistence on directly elected mayors jars with this. I beg to move.

4.15 pm

Lord Shipley: My Lords, there are two amendments in this group. I support Amendment 3, which was moved by the noble Lord, Lord McKenzie, and shall speak to Amendment 4. In essence, the question being addressed is whether it should be compulsory for there to be an elected mayor in some circumstances.

There are two ways of looking at this. First, with a directly elected mayor, there would be a direct connection between the ballot box and the additional powers being devolved, which would give local electors a say in who is running the devolved powers. It would also give the combined authority a chair who is not dependent on a single council for their authority. On the other side of the equation, it represents a huge concentration of power in one person, and it raises the question, which we debated in Committee, of whether the range of responsibilities is so vast that one person cannot do it all. In the context of some areas, such as the north-east of England, which I know well, the scale of the

[LORD SHIPLEY]
geographical area, which would run from the Scottish borders almost to the Tees valley, is so very large that it is very difficult to see how a single person could run that huge geographical area, even with the support of the leaders of the seven constituent councils. So it is right, as the noble Lord, Lord McKenzie of Luton, said, that constituent councils, together with their combined authorities, should have the right to come forward with different models to propose to the Secretary of State.

We addressed this issue in Committee with a proposal for a greater degree of direct election to the combined authority. It would have provided a stronger degree of legitimacy because the electors would have had a role in electing more people than just the single elected mayor. But that proposal was not supported by your Lordships' House and, as a consequence, we have not proceeded with it on Report. As we have made clear, we want devolution to succeed, but it has to succeed with clear legitimacy across the whole of a combined authority area. There are serious dangers that if it is not owned across the whole of that area, the public will start to turn against it.

One other aspect of this relates to the overview and scrutiny processes, and we discussed in Committee how that might be done. We will debate this later, but the Government have come up with some proposals that, while not as strong as I believe they should be, are certainly stronger.

I support Amendments 3 and 4 because they would give the essential flexibility needed to meet specific local needs without which devolution may not work well. We would get flexibility through Amendment 3; it would mean that there might be greater public ownership of the structure that is created.

Amendment 4 would require evidence of sufficient democratic accountability if there were to be an elected mayor. I think I have demonstrated in what I have said that it is very difficult to see how that would be delivered other than by the four-yearly election procedure. We also say that there needs to be a demonstration both that there is local support for the mayoral model and that in the construction of this new layer of government there will not be a risk to the proper functioning of the existing tier of local government.

I look forward to hearing the Minister's reply, but I think that the ad hoc decision-making by Ministers on which areas must have elected mayors and which need not needs to be spelled out clearly. At the moment it is not clear to anybody on what basis the Government are making the announcement that they regularly continue to make, without it being clearly understood what the criteria are for the devolution of powers to specific areas.

Lord Grocott (Lab): My Lords, basically this is a decision about whether mayors should be compulsory or whether there should be a degree of local input about whether or not mayors should be directly elected. The history of public acceptance of the concept is pretty hopeless from the perspective of those who favour directly elected mayors, which I do not.

Neither my dear old Labour Party nor the Conservative Party have covered themselves in glory on this issue. I briefly remind the House that the concept of directly elected mayors came from the last Labour Government. As far as I am concerned, as a very long-standing member of the Labour Party, it came out of a clear blue sky—or a clear red sky. I had never been to any meeting of the Labour Party at any level where there had been a clamour for directly elected mayors, nor had I, in 50-plus years of canvassing—I do not know whether anyone can challenge me on this—ever knocked on a door to be told, "I'd vote for your party if you gave us directly elected mayors". I think it is a product of a think tank; it is certainly not a product that has at any stage involved consulting the public.

The last Labour Government at least allowed local areas to have referendums before they embarked on a system of directly elected mayors. The results, certainly from my perspective, were pretty conclusive. There were 40 mayoral referendums under the Labour Government's legislation: 13 local areas said yes and 27 said no. That was a fairly clear demonstration nationwide that this was not a universally popular proposition.

When the Conservative-led Government came into power in 2010, they had seen the Labour Government's experience of a lack of wild enthusiasm, but for some reason the Conservative leadership thought that it was a great idea, as had the Labour leadership, so they did not allow the public to initiate referendums for directly elected mayors but simply said, "No. You, the 10 cities, shall have a referendum whether you want one or not". That was the basis on which they legislated. As we all know, and as my noble friend Lord McKenzie already said, the public were consulted in 10 referendums and in nine cases—my maths makes that in 90% of the cases—they said, "No thanks very much, we don't want directly elected mayors". Only 10%, or one city, said that it did, and I understand that that city is now not too keen on the concept, having seen it in operation.

So we have gone from a stage of local, initiated referendums under Labour, which did not work very well from the perspective of those who want this system, to compulsory referendums under the Conservatives, which if anything went even less satisfactorily. Now what do we have? We have a system that does not involve the public at any stage whatever and is simply an imposition from national government on the kind of local authority structure, or rather the management structure, that you will have whether you want it or not. If I could draw a graph to illustrate this, it would be pretty clear. The political class, which we talk about these days, of which I suppose we are members here one way or another, thinks this is a good idea, or at least the leadership does. Whenever the public are consulted they say, "No, we don't, thank you very much", so what does the political class do? It says, "Well, you'll have it, sunshine, whether you want it or not", which is the position that we are at with this legislation.

I simply appeal to the Government—it is a non-partisan appeal to the extent that I freely admit that in part my Government were to blame for all this—that if local authorities are being told, "You must have this hugely significant figure in your area, which will dramatically change how local government works there", surely at least there must be a degree of flexibility in considering whether the people in the area want it. Surely that is

the most modest of propositions. However, as things stand, whatever the Minister says when she replies—and I am sure she will say, "It is possible in certain circumstances"—in practice we know that this is about compulsory directly elected mayors, and I do not like that idea one little bit on democratic grounds, let alone on administrative grounds. I hope that the House will consider these two amendments very seriously.

Lord Deben (Con): I hope that the Minister will not accept what has just been said. We are looking at the history of local government, which I have been involved in for a very long time—since I first sat on the Inner London Education Authority in my twenties, so I know a little about how it operates. I say to my noble friend that we need something entirely new in local government if we are to recover the kind of verve and real local contribution that local government ought to make.

I agree with the noble Lord opposite that both sides can be blamed for a lot on this. Local government pretended that it could replace the Opposition and therefore could have nuclear-free zones, foreign policies and the like. This was countered by a reaction from a Conservative Government who took away local government's power to raise money through the business rate and the like. Both sides have a lot to answer for as regards the way in which we had that countervailing situation, and it took a long time for people to recover their respect and support for local government.

However, we have recovered our respect for a system that lacks vitality and deserves a great deal more opportunity. Our great cities should have the same kind of powers and the same sort of verve that you find in many continental cities. I do not see that we can do that under the present structure. What is more, all the amendments that come from the Opposition are about the perpetuation of the very systems that have helped to pull down local government and do not give it the sharpness that is necessary if local communities are to be properly represented.

I found the comment about the effect of mayors a bit odd. All I can say is that after a very long period of appalling local government in Bristol, in which all three parties were involved, the elected mayor of Bristol has made a dramatic improvement. He has no history of being a supporter of my party, so I speak entirely independently and objectively on that. Bristol is now extremely lucky in its representation and in the way the mayor can speak for that great city. It had years of destructive labour authorities, followed by the most peculiar system whereby each of the parties took control one by one and none covered itself in glory.

4.30 pm

Therefore, I beg my noble friend to stand up for this radical view. It is not surprising that the Labour Party continues to be conservative with a small "c", and it is not surprising that people did not vote for directly elected mayors in certain areas. The whole system determined that they would not, because it would have meant that the carefully arranged local power bases would be shaken by individuals who might make a very big difference.

I was opposed to having a mayor of London. I was wrong. London is much the better for having a mayor, but it is not comfortable and this is not meant to be comfortable. These amendments are designed to avoid what will be an uncomfortable change, but it is a change that could give local authorities the same kind of standing that they have elsewhere and the same kind of standing that they once had.

It is worth taking what for the party opposite is a risk. If we go down the route followed by that party we will never get there at all. We will go on fiddling about with the system. We will not make the changes necessary and the people of Britain will continue to live in one of the most centralised societies in western Europe. I do not think that is right. I believe in devolution, but devolution needs people to lead, and that is why this amendment should be opposed.

Baroness Hollis of Heigham: I support my noble friend's amendment. I was not expecting to speak on this but, if I may, I want to challenge the view expressed by the noble Lord, Lord Deben. As far as I can see, it is a view supported very strongly by former Secretaries of State, who think that basically local government should be led by people like them, ideally swishing round in cars and flying off to Japan to make contracts and so on. However, that is not what local government is about; it is about a sense of place.

The noble Lord, Lord Deben, seemed to suggest that local government has declined since the 1960s—when I came into local government, and stayed with it right through to the 1990s—because of a lack of local leadership, but I say to the noble Lord that the primary reason local government has declined is that my Government to some extent but his Government notoriously have taken away our powers, our responsibility, our finance and our accountability. They have centralised us in field after field after field, and have tried their best to turn us into postboxes of central government decisions.

I respect the position taken by the noble Lord, Lord Deben, in favour of devolution. However, if his answer is that leading local authorities should be strong people—mainly male, I guess, but not necessarily so—who are just like Secretaries of State so that in local government we get a mirror image of what is happening in central government, then I say as someone who has lived my life in and trained in local government that that is not the route that I want to follow. A sense of place means collaborative, consensual arrangements that local people want and support. If they choose to have a mayor, that is fine by me, but if that does not fit their sense of place then it should not be imposed on them by the swagger factor.

Lord Heseltine (Con): I have listened to the noble Baroness with interest and I wonder whether she has not caught up with the news that both Alan Johnson, a former Cabinet Minister in the Labour Government, and Liam Byrne, the very perceptive Chief Secretary who noticed that there was no money left, have said that in the circumstances of there being mayors they would be interested in a nomination. The fact is that creating the job of mayor has attracted a degree of interest at the very highest level in government and opposition politics. To me, one of the attractive ideas

[LORD HESELTINE]
of a mayor is that it will be a ladder up which budding national leaders will climb on their way to another place, or it will be the opportunity for people who have served at the highest levels of government to serve their local communities with all the experience that they have gained in government, having ceased to be members of a Cabinet. That is an interesting evolution of our constitutional practices that would enrich the political process. I very much hope that my noble friend will resist Amendments 3 and 4 because—let us be frank—they are wrecking amendments.

This Government were elected on the basis that there would be a deal—I quote the noble Lord, Lord Smith—of a sort "unimaginable" to local government in his experience. As the noble Lord, Lord Deben, said on this issue, we have taken power away from local government decade after decade after decade without a referendum and without any sort of consultation; we did it because we did not think local government was doing a good enough job. The noble Baroness, Lady Hollis, rightly said that it was done by both parties and admitted that her party played a part. But her party never did anything to restore any of the powers that my party had taken away; it loved it, shared in it and wallowed in it, as it exercised the powers that we had extricated from local government into the hands of central government.

Lord Lester of Herne Hill (LD): Can the noble Lord explain what it is that is wrecking in Amendments 3 or 4?

Lord Heseltine: The first point on Amendment 3 is that it removes the nature of the deal with government that there will be a mayor. It is designed to remove that condition. The noble Lord, Lord Shipley, has a different version, which has another delaying process, about consultation. But what does that mean? It means referenda. It means consultation of one sort or another. This is a delaying process.

I have no doubt that noble Lords all over this House are fully aware that from one end of England to another local councillors, leaders and industrial partners from the local enterprise partnerships are way past the debate that we are having today. They are actually designing the deals that will make this a reality. In his speech last week, the Chancellor listed Liverpool, Leeds, Sheffield and the possibility of the West Midlands as being already in the process of evolving the most detailed proposals to put to the Government. The condition behind all that is a directly elected mayor, as the noble Lord, Lord Smith, said in this House not that long ago. It is a deal. He said: "We did not particularly like directly elected mayors but the offer was too good". I therefore urge noble Lords to consider carefully whether we should be concentrating on whether there is a mayor, because there will be no deal in the circumstances we are talking about unless there is a mayor. What we should be talking about is how to ensure that the deal that is done is of the scale and level of imagination that meets the extraordinary offer that has been made.

I was surprised and disappointed when the noble Lord, Lord Shipley, asked: "How can one man, or woman, cope with such a situation?". Look outside this country and show me one where there is any alternative form of local government except what the Bill is proposing. There are senators in America with huge power. Germany has the Länder and France the departments. They seem perfectly capable of handling this massive responsibility. Are the English so impoverished as people that we have no one in our country capable of being the equal of what every advanced economy seems perfectly happy to deal with?

Anyone who has looked at this legislation will know that this is not the creation of a dictator. The checks and balances that exist within the negotiation that has been concluded with Manchester, for example, are very clear. The existing councils that make up the combined authority retain very large powers. They are part of an arrangement with the elected mayor that provides very substantial checks and balances.

The heart of this matter is that the Chancellor, in arguing for his deals, is looking, as my noble friend Lord Deben said, for a range of men and women capable of exercising leadership and appealing to the local community across the board. That is what we hope to see. In doing that, there is an offer from government to transfer power in a way that is outside any experience that any of us have had, with the exception, partially, of London.

Those of us who care about this issue are very familiar with Leicester and Liverpool, both of which have Labour mayors. One is a former Member of another place and the other a council leader who persuaded his colleagues to allow him to become a mayor. In talking to those who hold this responsibility, I have learned that their experience of the change in stature that takes place when they are seen as being a mayor—an internationally understood and recognised position—is extraordinary.

I hope very much that we in this House can perhaps move on from the minutiae of the Bill to the implementation of the legislation at the greatest possible speed. I really hope that your Lordships will catch up with where local government and the local enterprise partnerships are already. They are making this happen now. It is an exciting prospect that I never thought to see happen.

Lord McKenzie of Luton: Forgive me for interrupting, but before the noble Lord sits down will he clarify something? A statement was made at the other end that, if an area wants a deal that is not the size of Greater Manchester, it may not have to have an elected mayor. Can we have some clarity on what the lesser deal is that does not cause the imposition of an elected mayor?

Lord Heseltine: That is a very good question and rightly asked. Where the difficultly comes is that no one is imposing a deal. The Government are not saying that A, B, C and D must happen—the noble Lord shakes his head, but I had the privilege to sit in some of the negotiating discussions that have taken place and know that no Minister is saying that this is the prescription. That is what we would have done. All my life, that is what happened: it was not a question of whether an area wanted power over housing; it was a question of filling in 75 forms before building a council house. I had all those forms on my wall in the Department

of the Environment—70 forms, about the slope of the roof and the pitch of the eaves. That is what we did. And here we are talking about trying to impose some sort of structure of deal in the detail, which the Government are not going to do.

4.45 pm

In the big conurbations, the position is black and white. In the very different areas that make up much of rural England, or the mixed suburban areas, it is for the local people to come forward with a proposal. If they come forward with a proposal which simply says, "Give us the power and we'll get on with it", there is not a ghost of a chance that they will get a deal. The party opposite, which took as much power away as anybody, would not have given them a deal on that basis. So it is a waste of time pretending that they could have the sort of deal that they want without the change that is fundamental, which is to create leadership commensurate with these responsibilities.

It is for them. They will look at their circumstances, which will be very different, and they will design the leadership model they want. I am not a member of the Government, but I personally cannot conceive of a leadership model coming forward that does not involve a directly elected mayor. I had the privilege of advising the Conservative Party before the coalition Government and I was absolutely clear that there should be mayors, because I have seen it work all over the world—it does work and it is much better than what we have got in this country. However, if someone can come up with something that is credible and is able to persuade the Government that they can bear the responsibilities on offer to them, they may be successful, but it is for them, not for us. That is why I do not pretend to give a specific answer to the noble Lord, because I do not know of an answer that is other than the mayoral one. Somebody may think of one, so that would be looked at. Frankly, within six months, my guess is that this debate will have moved on so fast that we will know whether there are alternative structures that are acceptable.

For the vast majority of cases, my own view is that there will be mayors. From the more advanced conversations that are going on—largely among councillors who come from the parties opposite; they are the people making the pace, to be frank—my guess is that the mayoral model is the one that will survive and emerge. Four or five years from now, people will wonder what we were arguing about.

Lord Woolmer of Leeds: My Lords, the noble Lord spoke with great passion and is very well informed. For my own part of the country, West Yorkshire, I am very supportive of the proposal for elected mayors, but much of his argument was that there is no alternative to that wherever you are in the country; in other words, this model really ought to be adopted everywhere. If that is true, why does it not apply to individual local authorities? I am not advocating it, because I do not agree with it. For example, in my neck of the woods, you have Leeds, Bradford, Calderdale—which is Halifax—and Kirklees, which is Huddersfield and Wakefield. If the only way to run a local authority is to have an elected mayor, is the noble Lord saying that that applies to all major local authorities? As we know, this legislation relates not to all services and local authority activity but to certain strategic powers, where the case that he makes with great passion and history is persuasive. However, if his arguments are generalised to imply that you can run a significant-sized authority only by having a mayor and you cannot get the same thing with what we now call the leader and cabinet model, is he advocating mayors within combined authority mayoralties?

Lord Heseltine: The noble Lord asks me for my personal opinion on that matter and I give him my answer: yes. I think that we would have been incomparably better over 50 years if, instead of taking power away from those authorities, we had concentrated on their leadership and performance. Yes, that would have meant differentiating in the early stages about the financial support that one entrusted them with, but it would have left them with the potential of the power that we have taken away. I have no doubt that if we could rewrite the last 50 years we would have seen much stronger local government. Frankly, for those of us who remember Redcliffe-Maud: well, he was right, wasn't he?

Lord Scriven (LD): My Lords, I support Amendments 3 and 4. I have listened with interest to what the noble Lords, Lord Heseltine and Lord Deben, have said. The amendments are about flexibility—the whole point of devolution is flexibility—and the noble Lord, Lord Heseltine, let the cat out of the bag when he said that you would only have a deal if you have a mayor. That is diktat, not a deal: it means that you have to have a particular model. In this new world of the noble Lord, Lord Heseltine, the conurbations of Leeds, Sheffield and others are coming back to a mayor. That is because they know that they can only have a deal with a mayor.

Not only politicians but business people said on BBC Radio Sheffield this morning, "We do not necessarily want a mayor. It is unfair that we are being told to have a mayor"— particularly only a few years after the people had a voice and said no. This is what Amendment 4 is about. What arrogance to say that this place knows what the better governance arrangements are for cities and conurbations elsewhere in this country. Again, it marks the political class as being distant from the people whose lives it wishes to improve.

I was surprised when the noble Lord, Lord Heseltine, said that he was erecting a ladder for politicians to climb up—the very thing that local governments have done which has failed their areas. It was a very strange thing to say. Again quoting directly from what noble Lords have said, the noble Lord, Lord Deben, said that we need to do something new. As someone who led a council relatively recently, I agree. However, something new does not necessarily mean one issue in a straitjacket called a mayor.

Are mayors so successful? Tell that to the people of Doncaster, where the Government had to send in commissioners when they had—and still have—a mayor. Tell that to the people of Stoke-on-Trent and Hartlepool, who have voted to no longer have a directly elected mayor. Go down the road and tell that to the people of Tower Hamlets, who have a directly elected mayor.

[Lord Scriven]
It is not even a panacea internationally. Some cities in the USA have become bankrupt even though they have a directly elected mayor.

The amendment is not against directly elected mayors in areas where people wish to have them. I would not stop people who feel it appropriate and wish to have a directly elected mayor in their area from having one. However, it is arrogant to say to people who may come up with a new model that works for their area that they cannot have the powers because we have decided that their governance model is not correct. It is not only politicians who are saying that. The PwC report by Jon House, its head of local government and devolution, which was published only a couple of weeks ago, said that you have fallen into the trap of moving away from innovation and outcomes when you enforce one model of governance and people start talking about that.

I support the amendments. Amendment 3 gives flexibility and allows for the kind of innovation that the noble Lords, Lord Heseltine and Lord Deben, have talked about—I am sure other models will emerge. Secondly, what kind of Bill sets out the way a locality is governed and administered on the people's behalf, but does not ask the people what they think about it?

Baroness Jones of Moulsecoomb (GP): My Lords, I rise to speak in support of the amendment as one of the very few people in this House—I exclude the noble Lord, Lord Tope—who has had up close experience of the two London mayors we have had over the past 15 years. I can assure noble Lords that the system works sometimes, but not always, so to make it a compulsory element is absolutely nonsensical. Some of the language used here is a bit misleading. Talking about an elected Mayor of London as local government is a complete nonsense because it is not local government, it is regional government. The whole point of the Mayor of London is that he or she is not a local politician; they are a regional politician with responsibility for the strategic oversight of the area to which they are elected. Sometimes it works and sometimes it fails. It has failed spectacularly in London on our housing stock. The fact that we are so short of affordable and social housing is, I think, a failure of the mayor. As I say, this is not about local government, but strategic regional government.

I can assure noble Lords that making an elected mayor compulsory is nonsensical. It all depends on the talents and abilities of the person, and I would argue that while it has worked for some issues, for people here to say, "It is the answer because it is modern, innovative and fresh thinking", is complete nonsense. Please do not be fooled; rather, accept that a mayor should be an optional extra, not compulsory.

Baroness Janke (LD): My Lords, I too rise to support Amendments 3 and 4, and to echo some of the comments that have already been made. This is actually about choice. The Minister has rightly said that the Bill is not prescriptive, and yet it is highly prescriptive when it talks about mayors. We can see different forms of leadership working well in other parts of the country. We talk about international cities and Europe, but mayors in France are not directly elected; they are the top person on the list. People in other cities elect their leaders in different ways. Some call them mayors and some do not, and as I say, some of them are not directly elected.

We heard last week from colleagues who said that in their area of the country, a mayor would be entirely inappropriate. Indeed, the noble Baroness, Lady Hollis, has explained how it would be unacceptable and inappropriate in her own area. I would say that if we are in favour of no prescription, we should allow innovative forms of leadership to emerge in different parts of the country. We should not try to impose a certain form and say that people will not have powers if they do not adopt a mayor.

Perhaps I may talk briefly about the noble Lord, Lord Deben, and his rewriting of the history of the city of Bristol. I should point out at the start that the successes of Bristol have been well known for a long time. For the past 10 to 15 years it has been the most successful city outside London. It has the highest GDP per head of population of any English city except London and it is the European Green Capital, something that emerged through my own administration and has been carried on by the mayor. Certainly, there was instability of government when the Labour Party lost its majority on the city council, but that is no different from what has happened in many other places. Indeed, the city ran a successful three-party coalition for 18 months. I led that coalition, so it is no good the noble Lord shaking his head; that is indeed what happened—

Lord Deben: I worked with Bristol over a long period and it was one of the most difficult councils to deal with. Bristol succeeded in spite of its local government rather than because of it, and now it is succeeding because of it. That is the change.

Baroness Janke: Again, that is a rather selective rewriting of history. If you speak to the leaders of any of the three parties in Bristol, they will say that there have been successes by all the parties and they are united in being proud of their city. But as happens in national government, there can be differences of view and policy, and I do not believe that the very bad impression given by the noble Lord is at all just or reasonable.

The most important thing about these new measures is that we should address the powers. Much as we applaud what is happening in Manchester and other areas, if you were to speak to the mayor of Toulouse or the mayor of Hannover, one of Bristol's twin cities, and say, "We are going to finance your area by giving you predetermined, formula-determined grants in sealed envelopes; you will have no power to raise your own capital or to raise revenue; and you will have no other powers than those that the Government give you", they would be horrified. This is not the spirit of devolution.

5 pm

Devolution is about trusting people and giving them powers where they have scope and can use their energy, creativity and innovation to take forward projects that can make their economic area more prosperous. It is not about giving people conditions or requiring

local government to have to employ legions of lawyers to work out the various agreements and restricting conditions. Whether we are looking at LEPs or future arrangements, we need to set our cities free. We need to allow them to select their own form of leadership. A mayor may or may not be appropriate, but certainly many parts of the country will not find it appropriate. In support of both amendments, I say that we should liberate local government and give it powers. We should let it have its vision and regenerate its own areas in the way it has wanted to do for so long.

Lord Mackay of Clashfern (Con): My Lords, first, the Bill confers a discretion on the Secretary of State which is not restricted in any way whatever. Therefore, to say that this Bill is restrictive and that the amendments are intended to increase the discretion does not seem to be in accordance with the wording. Secondly, there are two powers in proposed new Section 107B, under Clause 1, providing for the election of a mayor under subsections (1) and (3). For some reason, these amendments apply only to subsection (1). That is rather strange. There may be a reason for that and if so, I would be glad to hear it.

Baroness Williams of Trafford: My Lords, Amendment 3 would set out in the Bill that the introduction of a mayor for a combined authority area would not be a precondition for the transfer of functions to combined authorities. We had a very lively debate on this amendment in Committee and we have had another very lively debate today. In that context, I am not surprised that we are considering the amendment.

I have been very clear on the Government's policy on the devolution of far-reaching powers to local areas. I think we can all agree that if areas are to have such powers they must adopt strong governance and accountability arrangements. As my noble friend Lord Heseltine said, it is not for us to come up with the proposals. It is a bottom-up process, and we want to hear from areas what their proposals are for the powers and budgets they want devolved to them, and the governance arrangements that they think are necessary to support such devolution. As my noble friend Lord Deben said, we need something new.

What sort of governance arrangements will be necessary—the scale and scope of the powers—will depend on the sort of proposals put forward. Last week, in his Budget speech in the other place, the Chancellor was very clear when he stated:

"The historic devolution that we have agreed with Greater Manchester in return for a directly elected Mayor is available to other cities that want to go down a similar path".—[*Official Report*, Commons, 8/7/15; col. 329.]

Our policy is therefore clear and this amendment is directly at odds with it.

We have this policy for good reasons. We have it because where there is devolution of the ambition and scale as in Greater Manchester, there needs to be a clear, single point of accountability. People need to know who is responsible for the major decisions in their area—decisions which will affect their daily lives.

My noble friend Lord Deben highlighted the importance of there being real change in local government. That is why we committed so clearly in our manifesto to legislate to implement the Greater Manchester deal and to offer similar deals to other cities that choose to have a mayor. The Bill, with its provisions on mayors, allows us to implement the Greater Manchester deal and fulfil our manifesto commitment. The amendment would, in fact, frustrate it.

As other noble Lords have said, mayoral governance for cities is a proven model that works around the world. It provides a single point of accountability. As my noble friend Lord Deben said, it has made a big difference to Bristol. When the office of the Mayor of London was created there was not much excitement across the country. As either my noble friend Lord Heseltine or my noble friend Lord Deben said—I cannot remember who it was—it is now seen as a force for progress in our capital.

Lord Harris of Haringey (Lab): Is it not the case, however, that the election of the Mayor of London was preceded by a referendum where the people of London chose to have government in London and an elected mayor—by, if I remember correctly, a two-thirds majority?

Baroness Williams of Trafford: That is correct. I am making a point not about referenda but about the profile and remit of the Mayor of London and how it is now something that people with a very high-profile background in both local and national government wish to go for.

I must say at this point that a mayoral model is not an imposition: it has to be agreed. No order can be made to transfer powers and create new governance arrangements without the consent of all authorities involved. The Secretary of State is not imposing a mayor on anyone, but he wants to see accountability proportionate to the scale of the devolution of powers. That we have this offer does not preclude us from engaging with all areas, cities, towns and counties to consider their proposals for devolution. Quite the contrary: we are ready to have conversations with anyone. The Bill does not limit in any way the devolution proposals that areas can make, and the Government will consider any and all proposals for greater local powers. In short, our clear policy is that the Government,

"intends to support towns and counties to play their part in growing the economy, offering them the opportunity to agree devolution deals, and providing local people with the levers they need to boost growth".

That was made clear in the Budget.

Lord Grocott: If what the Minister says is accurate in practice—that any proposal from below, or however you want to describe it, is entirely up to local initiative and will go ahead if there is agreement—presumably she can agree with Amendment 3. She is arguing that it is basically a permissive thing: that mayors may or may not be there, dependent on local initiatives. So I assume from what she said that she would not be in any way opposed to Amendment 3.

Baroness Williams of Trafford: I will address the noble Lord's point shortly.

Amendment 4 would insert a new subsection into new Section 107B to allow the Secretary of State to refuse to make an order providing for there to be a

[Baroness Williams of Trafford]
mayor if the proposal put forward by the area does not provide sufficient democratic accountability, does not have the support of local authority electors or would risk the proper functioning of local government in the area. Not only is this unnecessary, given that the Secretary of State always has a judgment as to whether to make an order; it does not reflect the context in which the provisions of the Bill will be used: to implement bespoke devolution deals agreed with areas—to be precise, agreed with those democratically elected to represent the area and who are accountable to it through the ballot box. It would be quite wrong to have considerations for devolution deals that in some way sought to have the Secretary of State second-guessing those local democratically elected representatives, or turning discussion of the deal into some sort of tick-box exercise.

Lord Lester of Herne Hill: Is the Minister saying, therefore, that the factors in proposed paragraphs (a), (b) and (c) in Amendment 4 would be irrelevant considerations that the Secretary of State would not be entitled to take into account?

Baroness Williams of Trafford: My Lords, I am saying that it will be an agreement between the Secretary of State and local electors that will determine what the deal looks like, if that helps.

Noble Lords: Combined authority areas.

Baroness Williams of Trafford: I am sorry—combined authority areas. I apologise; this debate has gone on for a while.

I wish to address some of the points that noble Lords raised. The noble Lord, Lord Shipley, talked about the mayor not having capacity to fulfil all functions. As my noble friend Lord Heseltine said, that is common practice in cities across the world which seem to manage to fulfil this perfectly well. However, the mayor will have power to delegate functions to a deputy mayor or officers to ensure that responsibilities are properly fulfilled. Crucially, regardless of whether a particular power is delegated, the mayor is, and is widely seen to be, accountable for the exercise of that power.

The noble Lord, Lord Shipley, also talked about areas coming forward with their own ideas on governance. As I have said on many an occasion, we are ready to have a conversation with any area about its governance proposals alongside its proposals for power to be devolved to it. The governance needs to be proportionate to the powers, delivering accountability and the necessary transparency.

The noble Lords, Lord McKenzie and Lord Shipley, asked the crucial question: what is something less? As I said, the form of governance needs to be proportionate to the scope and nature of the power being devolved. Where less than major powers are devolved, because that is all an area wishes for, the existing governance of an area may be appropriate. Again, depending on the nature of powers devolved, a combined authority, with the governance combined authorities have today, may be appropriate—that is, governance by the leaders of the area collectively. However, with major powers there needs to be a single point of accountability, and that is provided by a directly elected individual.

Baroness Jones of Moulsecoomb: Does the Minister agree that, when you have this much power vested in one person, you also need a very good system of accountability and scrutiny? Here in London that has not happened enough. As a member of the London body, I know that we have not had enough powers. Is that something the Government are thinking about?

Baroness Williams of Trafford: The noble Baroness's question is the subject of later amendments. Certainly, the London model is not being considered in Greater Manchester. However, during the Bill's passage, there has been a lot of discussion on the need to strengthen scrutiny.

Lord McKenzie of Luton: Before the Minister moves on, will she clarify what is included in "major powers"? What are major powers and less than major powers or minor powers? That is the dividing line in this matter.

Baroness Williams of Trafford: As noble Lords will see, an example of major powers is devolution for Greater Manchester. That is an example of a suite of major powers.

I should like to make some progress. The noble Lord, Lord Grocott, referred to Amendment 3, which would obstruct our policy of allowing major powers to be devolved to a city because there is a necessary single point of accountability—that is, the mayor. The noble Lord also said that people should have a referendum to decide whether to have a metro mayor. We recognise that in the past some cities have rejected the opportunity to elect a mayor. This time it is an entirely different proposition. It is about putting in place a devolution deal which the democratically elected representatives of the place have agreed with government. Part of that deal is the necessity for robust local governance for the new devolved powers, and for a powerful point of accountability such as a mayor. It is for the elected representatives of an area who have a democratic mandate to decide, in discussions with government, whether they wish to introduce a mayor and benefit from major devolved powers.

5.15 pm

I will address the points made by the noble Lord, Lord Scriven—if not, he will stand up, I am sure. He said that the amendment only allows flexibility. That is not the case. The Bill already gives total flexibility as to what the deal can be. The amendment introduces a straitjacket to the kind of deal that can be put in place. Under the amendment, an area may be interested in having powers devolved of a kind where a mayor would provide that necessary single point of accountability, but this could no longer be the basis of a deal.

The noble Lord, Lord Scriven, talked about us imposing a model of governance. It is entirely the opposite. The Bill does not seek to impose governance models. As the Bill has progressed and we have had arguments about what can and cannot be had, I have always said that we are interested in hearing from all areas about all different types of proposals. The noble and learned Lord, Lord Mackay of Clashfern, pointed out why the Bill does not impose a model of governance.

Lord Scriven: If, for example, my own area of Sheffield decides to go for this with a mayor and it is then not deemed to be as successful as some of the proponents want, and the public and the politicians in that area wish to move away from the mayoral model, what would be the procedure to do that—to prove that it was not an imposition, that actually it was a deal, it was voluntary and could be withdrawn from by both the public and the politicians of that area?

Baroness Williams of Trafford: My Lords, if a local area agreed a process with government and it was done through a parliamentary process, that local area would then have to go back to Parliament in some way and say that the local electors did not wish to have this any more. I am not going to stand here and prescribe a particular set of circumstances in which a particular area may not wish what it had agreed with government to continue to be the case. Having agreed it through a parliamentary process, it would have to go back through that parliamentary process and explain why the local electors no longer wished for it to be the case.

The noble Baroness, Lady Janke, talked about predetermined grants in envelopes. As I say, I have spent the entire Bill demonstrating that this is not the case. Nothing is predetermined. That has caused confusion in some ways in that there has been constant pushback on me to prescribe, and we are not prescribing. I hope that with these explanations the noble Lord will feel able to withdraw his amendment.

Lord Shipley: The Minister said two separate things. The first was that it was for local areas to come up with proposals for devolution and the Government were keen to hear what those were. Secondly, she said that to have major powers devolved requires a mayor, and she gave Greater Manchester as an example. Does the Minister have a list of the powers that can be devolved without an elected mayor and those that can be devolved only if there is an elected mayor? It seems absolutely central to this issue because at the moment it is not clear—certainly not to me and, I suspect, others in your Lordships' House—exactly what the Government's offer is.

Baroness Williams of Trafford: My Lords, I do not and will not have a list. As I have said repeatedly, what powers are devolved will be up to agreement between local areas and the Secretary of State.

Lord McKenzie of Luton: My Lords, this has been an extensive and good debate and the time moves on, so forgive me if I do not respond to each point that noble Lords have made, whether it was as a trip through history about what has happened to elected mayors or the stage that we have reached today. The problems with the London system, some of the time, and the difficulties that other areas have found were mentioned.

I would like to challenge the proposition that the amendments are wrecking amendments. I am bound to say to the noble Lord, Lord Heseltine, that that really is not the case. It was not the intent and is not their substance. If we look at the thrust of all the amendments that are before us today and will be on Wednesday, they are overwhelmingly about trying to improve the Bill and achieve the very thing that he wants and campaigns for. It is unhelpful to characterise these amendments as wrecking when, in total, we are trying to improve the Bill so that devolution can be delivered across the country.

The noble Lord, Lord Shipley, asked the pertinent questions about major powers—what is in and what is out—and of course we got the usual answer. I do not think that anybody sees it as a credible response to say that nothing is being imposed on people because the Bill is a framework Bill, in circumstances where the Government make it absolutely clear from the start that you can get certain powers only if you have an elected mayor. That is not a process of not imposing anything on anybody. It is making sure that the price paid is very clear up front, in some circumstances. It is very unclear in other circumstances what price will be asked, depending on what powers are available. I am bound to say that whether we are in favour of or against elected mayors instinctively, we did not see it as a ladder up which budding leaders could climb—and even less so a retirement job for ex-Cabinet Ministers. I did not think that that was the process we were involved in today.

The noble Lord, Lord Heseltine, made a powerful speech reiterating his passion for devolution and what it could lead to. We support all that but he himself said that if somebody comes up with something it will be considered, so seemingly from his point of view there is not an inevitable imposition of an elected mayor. The noble Lord may feel that something credible would not come up, and he may or may not be right. But even he seemed to recognise that there should be scope, which is effectively what Amendment 3 is seeking. It may be, in the terms used by the noble and learned Lord, Lord Mackay, that the wording is imperfect but then it is the job of government at Third Reading to tie that up.

Lord Mackay of Clashfern: I am sorry to interrupt—it is not my habit—but the present Bill simply gives a discretion to the Minister, absolutely free. There is no limit on that discretion to having an elected mayor. It is a discretion to consider the particular proposals made. I understood the Government to have said in the debate that the idea of an elected mayor, while very attractive from their point of view, was not essential for every proposal that might come forward.

Lord McKenzie of Luton: My Lords, we accept that there is a discretion but we know that that discretion will inevitably be operated in certain ways in certain circumstances. The Government will insist upon an elected mayor and the discretion, which I accept is permitted under the Bill, will be exercised in a certain way. This is about trying to get clarity or preclude that being an inevitable part of a deal. If somebody wants an elected mayor and can put forward governance arrangements and credibility around all that, fine. But if they do not, why should that not inevitably be considered fairly by the Government in the negotiations which go on?

Lord Mackay of Clashfern: Nothing that I have seen anywhere so far says that the Government can give powers under these proposals only if there is an

[Lord Mackay of Clashfern]
elected mayor. It is left completely open. All this seems to be based on is some suggestion that that is what the Government want to do. However, the Government have proposed a Bill that does not have that in it. I cannot myself see why that discretion should be limited.

Lord McKenzie of Luton: The noble and learned Lord is right that there is a discretion in the Bill, but we know, alongside that, that the Government have made it absolutely clear that an elected mayor will be insisted upon in a range of circumstances. We are seeking to determine that that insistence should be precluded, not that the option should not be available, if that is what a combined area wants. The starting point should not be that you must have an elected mayor in that range of circumstances.

It seems that there is some recognition that there should be discretion for combined authorities to come forward—the Minister has said that. It is all very well recognising that, but at the same time they are saying, in this place and in the Chancellor's Statement at the other end, that you have to have an elected mayor, come what may. There is an inconsistency between those positions, and this amendment is trying to clarify that inconsistency. We do not think that there should be that insistence. If people want this and can come forward with a credible model, fine; but if the starting point of these deals is that you must have an elected mayor, that is wrong and we oppose it.

This a great shame because there is substantial agreement across the Chamber, I think, about the thrust of the Bill. The one point where it jars is this obsession and insistence on an elected mayor—not in the Bill itself but in terms of how we know it will be applied and how we know it is being applied in the case of Greater Manchester and other areas. That is the point that divides us. Given the support that we have across the piece for the Bill, it is a great shame that we have to divide on this, but I propose to divide and test the opinion of the House.

5.27 pm

Division on Amendment 3

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Amendment 3 agreed.

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Balfe, L.
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Bew, L.
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5.41 pm

Amendment 4 not moved.

Schedule 1: Mayors for combined authority areas: further provision about elections

Amendment 5

Moved by ***Baroness Williams of Trafford***

5: Schedule 1, page 13, line 12, at end insert—

"(1) The term of office of a mayor is to be four years.

(2) The first election for the return of a mayor is to take place on the first day of ordinary elections of councillors of a constituent council to take place after the end of the period of 6 months beginning with the day on which the order under section 107A comes into force.

(3) Subsequent elections for the return of a mayor are to take place in every fourth year thereafter on the same day as the ordinary election of councillors of that constituent council.

(4) But this paragraph has effect subject to any provision made under paragraph 2.

(5) In this paragraph "constituent council" means—

(a) a county council the whole or any part of whose area is within the area of the combined authority, or

(b) a district council whose area is within the area of the combined authority."

Baroness Williams of Trafford: Amendment 5 sets a default term of office for an elected mayor of a combined authority area and a default date of the election for the return of an elected mayor for a combined authority area. Amendment 8 is a minor and technical amendment.

As the Bill currently stands, the term of office and the date of election are set by order by the Secretary of State. Following the comments of the Delegated Powers and Regulatory Reform Committee and an amendment brought forward by the noble Lords, Lord McKenzie and Lord Beecham, in Committee, we wish to include default provisions in the Bill to apply in cases where specific orders are not made.

The Delegated Powers and Regulatory Reform Committee suggested that the Bill's order-making powers should be limited to specifying the timing and frequency of metro mayor elections only at the initial establishment of the office of mayor. We do not believe it right to limit the order-making power in this way, as I shall explain, but to provide some assurance that with Amendment 5 we are following the precedent in the Local Government Act 2000, which was referred to by the Delegated Powers and Regulatory Reform Committee. It provides in the Bill default timings of mayoral elections and the mayoral term. Equally, to retain the flexibility needed, the Secretary of State will be able to make specific orders under paragraphs 2(a) and 2(c) of new Schedule 5B to the Local Democracy, Economic Development and Construction Act 2009. The amendments providing for the default position in no way curtail the scope of the order-making powers in Schedule 5B.

The ability for the Secretary of State to set the timings of elections by order allows for the fact that there is currently no single pattern of local elections across the country with which a new mayoral election may be synchronised. It also recognises that devolution deals will be bespoke, and therefore it is possible that different arrangements may be sought by, and agreed with, different areas. For example, an area may wish its mayoral election to be held in a year when there are no council elections, but another area may wish to combine mayoral and council elections. Again, for example, while we expect that probably most deals with metro mayors will have mayoral terms of four years, it is possible that an area may wish to have, say, five-year terms similar to the parliamentary term.

Returning to the default position that we are providing, it reflects that in general a mayoral term will be four years and the election will take place at the same time as council elections in the combined authority area. Hence, under the default provisions, the first election of the mayor will take place at the next local council elections not less than six months after the order creating the mayoral combined authority comes into force, and elections will be every four years thereafter.

Amendment 8 is a minor and technical amendment to ensure that the provision in the Bill applies equally to the disqualification of an individual in respect of their being, or being elected as, a mayor, as well as more specifically in relation to their being, or being elected as, the mayor for that area.

5.45 pm

Before I sit down, it may be helpful if I speak to the amendments proposed by the noble Lord, Lord Grocott. Amendment 6 seeks to ensure that a mayoral term of office should be limited to four years. As I have explained, we do not believe that it would be right to restrict the mayoral term in this way. This Bill is very much an enabling Bill, and I believe it is right that this legislation has a degree of flexibility, enabling us to respond to proposals that chime with and reflect local requirements. Hence, we would not wish to rule out the possibility of, say, a five-year term if that is what the area wanted and, of course, if that is what Parliament agreed when approving the order.

With Amendment 7, the noble Lord seeks to limit the number of terms of office that any individual may serve as a mayor for a combined authority to two terms. Some may see that such a provision would serve to re-energise and revitalise the leadership of a combined authority, ensuring that it did not become too comfortable and forcing, in a sense, the injection of new ideas and a new direction, particularly in areas that may have a strong and stable political affiliation that may not, on the face of it, create or nurture the environment for such change.

However, we have concerns about term limits. First, and in a vein that will be familiar from the debate to date, I am concerned that it would introduce a degree of prescription in the Bill that sits uneasily with the devolutionary and enabling legislative framework that we are seeking to introduce. However, and more importantly, any such prescription would start to cut across the rights of local people—local electors—to determine who they should be led by. Imposing on the electorate of an area a requirement that, for example, a strong leader with a clear vision for the future and a record of delivering against that vision should be forcibly stood down, with that decision being taken out of the hands of those who had elected that person in the first place, goes very much against the grain and is unlikely to be welcomed by the people who elected him or her.

We have spoken about accountability. Noble Lords will know my views on the importance of the elected mayor being held to account by his or her electorate. That electorate will continue to have their opportunity to either endorse the incumbent or select a successor. I hope these comments are helpful, and I beg to move Amendment 5.

Lord Grocott (Lab): My Lords, I am grateful for a fair amount of what the Minister said. My Amendments 6 and 7 are, I think, about the shortest and, in many ways, the simplest in the Marshalled List. Amendment 6 suggests that mayoral elections should basically be every four years and Amendment 7 suggests that there should be a maximum of two terms.

On the four years, I think the Minister has probably gone as far as she can. It may not be precisely in her amendment, but in truth the Government seem to be saying that four years is a reasonable, sensible term of office for a mayor. It struck me as very odd indeed—I said so in Committee—that the term of office of the mayor was left entirely to ministerial order in the original Bill. In theory that could provide for a term of

office of four, five, six, seven, eight or nine years, or any other number you care to think about. It is such a fundamental part of a democracy to know when an election is going to take place that it is essential to have at least some reference to it in the Bill, and I welcome the fact that the Government have put down an amendment. It does not do everything I would like, but in life you do not get everything.

Amendment 7 would effectively limit the mayor's term of office to two four-year terms. That, the maths will tell us, is a maximum of eight years. I emphasise that the amendment would be in no way retrospective; I do not think that, under the Bill, it could be. It does not say to those people who are directly elected mayors at the moment—I would not dare say this—"Sorry, you've had your eight years and you must go". It would simply apply to the provisions of the Bill.

I submit that this amendment is very important. I have made it plain that I do not like directly elected mayors. I much prefer the parliamentary system to the presidential one, and there are checks and balances built into the leadership of local authorities at present. Leaders can be removed if they are not doing the job properly. It has never inhibited great leaders of local government in the past, as far as I can make out. I must admit that from some of the comments we have heard in earlier debates you would think that local government had been bereft of outstanding leaders. I do not think that Joe Chamberlain did too badly and I thought that Herbert Morrison was not too bad either. Anyway, we have had that debate.

What I know is that the great strength of the present system, prior to directly elected mayors, is that there is a daily check and balance on the performance of the leader, and if they are not good enough they can be removed. We all know that that has happened in local authorities; we probably all have our own examples. The problem with a directly elected mayor, and I do not think that the Bill addresses it, is that once you have elected them—there is one election once, and that is it—there is very little under this system to deal with a mayor who is considered by his or her peers not to be doing the job very well. There is no power of recall.

Perhaps the Minister could spell out what the checks would be if it became manifest that a mayor was not doing the job properly—obviously, short of a criminal offence. The noble Lord, Lord Heseltine, referred in the earlier debate to checks and balances, but as far as I can see there are none. That is why the amendment is important; again, I will stand corrected if other people have better international examples than I have, but I think in most systems where there are direct elections there is a limit somewhere to the number of times that you can be directly elected. There are good reasons for that, not least that there is an inevitable tendency for directly elected mayors to see the job of the administration as basically to secure their re-election; that tends to develop in their minds and in the operation of many of their staff.

At its zenith, the American system decided that eight years was long enough, and if it is long enough for an American President it is probably long enough for the mayor of a city in the United Kingdom. I suggest that this has been a mistake in previous legislation about elected mayors; it simply has not provided for limits of terms of office, and it is right that we should do so. I think that the Minister even acknowledged that there are some problems that have not entirely been addressed in that legislation. I submit to the House that this amendment is well worthy of consideration.

Lord Campbell-Savours (Lab): My Lords, in intervening briefly, I make it clear that I am a passionate supporter of the whole mayoral principle. I believe in elected mayors and have done from the very beginning. I saw them in France when I lived there many years ago. I believe that the system works and it is better than other models, so I have no problem with it at all. However, I also support my noble friend's amendments.

It is more than 40 years since I was in local government but I always felt that very often local government becomes lazy. People do not always get into that position—there are often very good mayors outside the mayoral model that we are discussing, and leaders of local authorities can be there for years doing a perfectly good job—but you often find in local authorities that people simply become lazy, and they should be moved on. However, they have such control over what is going on around them in the local authority that they cannot be moved. The people whom they have appointed are somehow compromised, and they spend more time ensuring that their position is safe than in engaging themselves in the innovation that was talked about by a number of those who contributed to the last debate.

I think that a term of eight years is quite sufficient. It would keep the mayor on his or her toes, and they would want to be seen to be innovative at every stage. In many ways, I think it would avoid the kind of problems that I have heard and read about over recent years when I have looked at what happened in some of the mayoralties. The recent problems in east London in many ways reflect what I am saying: someone had total control and now, fortunately—through the courts, in the end—we have managed to get rid of them. If you have a model that is based on a more limited term, there is less opportunity for those sorts of problems to arise.

Lord Beecham (Lab): My Lords, we seem to be moving on to somewhat more consensual territory after the excitement of the past couple of hours. When I listen to discussions about the offer of devolution being based on a requirement to have an elected mayor, I am rather reminded of Henry Ford's famous offer that anyone could buy a car of any colour as long as it was black. The mayoral model seems to be that you can have devolution as long as the devolution car is driven by an elected mayor; it is a less than free choice.

However, the Minister's amendments are acceptable. They certainly incorporate some of the concerns that were mentioned in Committee, particularly with the default position that we are clear as to the limits that would be applied to the length of term. No doubt the Lord Chancellor, Mr Gove, has been sending over memos about the wording, or indeed the grammar, in reference to Amendment 8.

[Lord Beecham]

I was of course interested in my noble friend Lord Grocott's amendments, one of which is effectively met, I suggest, by the government amendment. I think that four or five years is seen by the Minister as a maximum, and that seems to be reasonable. I am somewhat in two minds about my noble friend's suggestion of a limit of two terms. I stood down from the leadership of Newcastle City Council 20 years ago and, in reference to the remarks from the noble Lord, Lord Heseltine, about the recognition or otherwise of council leaders as opposed to mayors, I have to say that 20 years on people still remember—I cannot say with what relish—my service as council leader for a period of 17 and a half years before that. It is possible to hold office, be accountable and, I hope, make a contribution for a somewhat longer period than two terms would necessarily imply. For myself, I am prepared to accept the Government's position.

However, it might be worth keeping this matter under review. I suppose that in any event it would be reviewed over time, and we might have examples in this country, which so far we have been spared, of the kind of conduct in office that sometimes has occurred, particularly in the United States but in other jurisdictions as well, where, frankly, there needs to be some kind of limit. In our political culture, we have not experienced much of that. On balance, I invite my noble friend not to divide the House on that amendment. For my part, I am content with the Minister's amendments.

6 pm

Baroness Williams of Trafford: My Lords, I will address some of the points made by the noble Lord, Lord Grocott, in the course of moving his amendment. He said that you cannot get rid of mayors. In any elected office that I can think of, you can get rid of leaders or back-bench councillors in two ways: first, through the party's electoral or selection arrangements, and, secondly, by the ballot box. Therefore, just as with local authorities, so with the office of mayor there is the ability to get rid of the mayor.

The noble Lord also talked about the power of recall. Again, referencing it back to local authorities, there is not a power of recall within local authority arrangements, either. Obviously, they are talking about this in the House of Commons: there is not a power of recall in local government. The build-up is incredible, but later on in the debate we will talk about scrutiny—and there is an ability to scrutinise both local authority leaders and an elected mayor.

The noble Lord's third point was on limiting a mayor to two terms of office. First, in this country there are no other arrangements that replicate that, but I thought of two leaders, one of whom I will name, the other of whom I will not. Richard Leese is one of them; he has been leader for almost 20 years now, and his continuity within Manchester City Council has enhanced the city greatly. I will not name another local authority leader, who was in power for 35 years; I do not think that a single year of his leadership was beneficial to the local area—which is why I will not name him. Therefore, I can see that that could be true in some areas. However, it is also for local electors and political parties to make that change if they so wish.

Lord Beecham: My Lords, does the noble Baroness recall the leader of a council not too far away from Manchester who led the council for some 50 years before retiring at the age of 85 to make way for a younger successor who was 76?

Baroness Williams of Trafford: I do not think that we are thinking of the same person, but that is very interesting. I thank the noble Lord and ask him not to press his amendments.

Amendment 5 agreed.

Amendments 6 and 7 not moved.

Amendment 8

Moved by ***Baroness Williams of Trafford***

8: Schedule 1, page 17, line 4, leave out "the" and insert "a"

Amendment 8 agreed.

Clause 2: Deputy mayors etc

Amendment 9

Moved by ***Lord Beecham***

9: Clause 2, page 3, line 4, at end insert "with the consent of the combined authority"

Lord Beecham: My Lords, Amendments 9, 11, 12 and 14 in this group relate to the functions of the elected mayor and his relationship with the combined authority in that context. Amendment 9 requires the consent of the combined authority to the appointment of a deputy. In Committee the Minister asserted that given that the mayor would by definition have been elected, it was only reasonable for him or her to appoint their deputy. However, we are dealing here with very wide powers over potentially sizable geographical areas, as we heard earlier this afternoon, and certainly with large populations.

The amendment does not advocate a sort of "House of Cards" process, as chillingly exemplified by Kevin Spacey in the United States version of the entertaining drama by the noble Lord, Lord Dobbs. However, it is surely reasonable for the appointment of a deputy—even one drawn from the members of the combined authority—to be approved by that body, especially as there is effectively no limit on the character and extent of the powers that might be so delegated. Moreover, of course, the deputy would, in the event of a vacancy, step into the mayoral shoes pending a fresh election. For these reasons Amendment 12 is also relevant, as it requires the consent of the combined authority to the delegation of powers by the mayor to the deputy or, as the Bill prescribes, any other officer or member. After all, neither the public nor the combined authority would have had a say in those appointments.

Amendment 11 seeks to ensure that mayoral functions which the Secretary of State may make exercisable only by the mayor should be assigned only with the consent of the combined authority. That appears to be the position, if I read it correctly, of the Greater Manchester agreement, and if it is right for Manchester, I suggest that it should be for more general application.

Finally, Amendment 14 reinforces the need for combined authority consent to a Secretary of State's order as to the delegation made under subsection (3). I beg to move.

Lord Shipley: My Lords, I will speak to Amendments 10 and 13 in this group. Broadly speaking, whereas the amendments moved by the noble Lord, Lord Beecham, are about securing the approval of the combined authorities, ours require the approval of the overview and scrutiny committee. As we said in Committee, it is much better for that committee to do it, for three reasons. First, it is independent of the mayor and of the combined authority. Secondly, it can be objective and can hold a hearing in public to assess the suitability of a proposed person, thus giving real effect to the principles of scrutiny. Thirdly, it can satisfy itself that the person selected can represent the interests of all parts of its combined authority area, which can sometimes be very large.

In a sense we debated this in Committee, and I listened carefully to the Minister's answer at the time. I am not convinced that it is right to give the powers of what could appear to be patronage to a single individual. Nor am I convinced that the members of a combined authority, who were appointed as opposed to being directly elected to it, should simply be given the power to decide or to agree who the deputy should be. I would be much happier if we had an independent process which the overview and scrutiny process would look after. I therefore look forward to hearing the Minister's response to the point about how you ensure that those who hold very senior, responsible jobs, which are very well remunerated, can maintain the confidence of the general public.

Baroness Williams of Trafford: My Lords, these amendments are all about requiring members of the combined authority or overview and scrutiny committee to be involved in actions which are, quite rightly, those of the elected mayor.

I will first speak to Amendment 11, which would insert the requirement that the combined authority must consent to functions of the combined authority being exercised by the mayor. I do not disagree with what the amendment seeks to achieve. There are a number of circumstances in which an order could be made to make a function of the combined authority exercisable only by the mayor. Our intention is that in all circumstances the combined authority must give consent—or, if this is at the initial stage of setting up the combined authority, the constituent councils must do so.

First, when an order is made to create the post of mayor and transfer powers to the combined authority, in this circumstance nothing can happen without the consent of the combined authority or the local councils involved. Clearly, consent would not be given if the order proposed to give a mayor powers with which the councils or combined authority were not content. Secondly, when an order is made to transfer further powers to a combined authority, similarly, such an order would require consent from all the local councils.

Finally, and notwithstanding our intention, I accept that there could be, at least in theory, a subsequent order to make an existing function of the combined authority a function exercisable only by the mayor. We are ready to accept that any such lacuna in the legislation should be addressed and we are minded to accept this amendment. However, the drafting will need further consideration and, if noble Lords will allow, I will come back to it at Third Reading.

Amendments 9 and 10 would require the mayor to obtain the consent of the combined authority or, in the case of Amendment 10, the overview and scrutiny committee before appointing the deputy mayor. For mayoral governance to be effective, the mayor and the deputy mayor must be able to work together and the mayor must have confidence in his or her deputy. Moreover, the mayor's choice of deputy mayor is very restricted. As provided for in the Bill, the deputy mayor must be a member of the combined authority, so the mayor is already choosing from a small group of people.

In practice, a mayor will consult some of or all the members of a combined authority about a deputy mayoral appointment, but it would be wrong for the members of the combined authority or the overview and scrutiny committee to have the ultimate say over who the deputy mayor is. The noble Lord, Lord Beecham, talked about Greater Manchester and he is absolutely correct that that is an interim arrangement.

The mayor, with a clear mandate, needs to be able to have the say over who among the members of the combined authority will be the deputy and who will assist him or her in delivering what he or she has promised the voters. Giving the combined authority or overview and scrutiny committee the final say as to whether a person can or cannot be the deputy opens up the possibility of appointments which would hinder the mayor and prevent the mayor and deputy working together effectively and smoothly for a common purpose. These amendments are therefore not a sensible check or balance on the exercise of executive functions and I invite noble Lords not to press them.

Amendments 12, 13 and 14 would require a mayor to consult the combined authority or, in the case of Amendment 13, the overview and scrutiny committee before delegating a general function to the deputy mayor, another member or an officer. The provisions in the Bill relating to delegation align with the policy for a local authority mayor or leader, who may arrange for the discharge of functions by members of the executive or officers of the authority. Although the mayor may delegate functions, he or she remains accountable for any actions taken and is accountable directly to the electorate.

I understand the thoughts behind these amendments—that is, to ensure that a mayor is indeed effectively and transparently held to account and that, while there is the capacity for strong executive action, equally the right checks and balances are in place to give confidence in that respect and ensure accountability. However, such checks and balances will not be delivered if executive and non-executive actions are confused by involving the members of the combined authority in decisions such as how the mayor performs his or her role.

Later, we will discuss the appropriate strong and transparent overview and scrutiny to ensure sensible and robust checks and balances on the actions of the

[Baroness Williams of Trafford]
mayor and the combined authority. It is entirely right that the mayor is held to account, but he or she must also be able to deliver effectively on the commitments made to the electorate, and these amendments could be severely detrimental to that. With those explanations, I hope that noble Lords will agree not to press their amendments.

Lord Beecham: My Lords, I am most grateful to the Minister for accepting the principle of Amendment 11 and I look forward to working with her to agree a form of words when we get to Third Reading.

I am slightly disappointed at the response to some of the other amendments in my name and that of my noble friend Lord McKenzie—in particular, about the delegation of functions. Given the huge scale of the authorities that we are talking about and the huge responsibilities which it is hoped will be devolved, it seems to me that this is a rather different role from that of a council leader or chief executive or even an elected mayor in the authorities as presently constituted. However, I will not press those amendments and will rely on the noble Baroness's undertaking to revert to the subject of Amendment 11 at Third Reading. I beg leave to withdraw the amendment.

Amendment 9 withdrawn

Amendment 10 not moved.

Clause 3: Functions

Amendments 11 to 14 not moved.

6.15 pm

Amendment 14A
Moved by ***Lord Shipley***

14A: Clause 3, page 5, line 29, at end insert—

"107F Discharge of functions: access to press and the public

(1) In transferring any functions of the mayoral combined authority to the mayor under section 107D or 107E, the Secretary of State shall make regulations to provide for press and public access to information and meetings of—

(a) members or officers of the combined authority, or

(b) any combination of members and officers of the authority,

concerning how the function is discharged.

(2) Subsection (1) does not apply to access to information and meetings concerning the discharge of these functions governed by Part V of the Local Government Act 1972, the Local Government (Access to Information) Act 1985 or the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

(3) For the purposes of subsection (1), "access" includes but is not limited to—

(a) attending and viewing,

(b) taking notes,

(c) taking a visual or audio recording,

(d) prior provision, inspection and copying of agendas, reports, background papers and minutes, or

(e) pre-publicity of any significant decisions to be made or considered at the meeting.

(4) For the purposes of subsection (3)(e), "significant" means significant with regard to the authority's expenditure or the impact on local communities."

Lord Shipley: My Lords, this amendment would require meetings and documents concerning the discharge of functions by the mayor or the combined authority to be accessible to the press and public unless they were necessarily excluded by existing law. This is important to ensure transparency of decision-making. The Minister has said on several occasions this afternoon that an elected mayor would be a single point of accountability. It is therefore important that that accountability is transparent.

The amendment talks about the discharge of functions in transferring any functions of the mayoral combined authority to the mayor under new Sections 107D or 107E introduced by the Bill. New Section 107D talks about the general functions of mayors. It says:

"The Secretary of State may by order make provision for any function of a mayoral combined authority to be a function exercisable only by the mayor".

New Section 107E, which relates to the policing functions of mayors, says:

"The Secretary of State may by order provide for the mayor for the area of a combined authority to exercise functions of a police and crime commissioner in relation to that area".

On the face of it, the Secretary of State can require a further centralisation of power to the elected mayor from a mayoral combined authority, and it is clear that the function would be exercisable only by that single person. Therefore, if the power lies with a single person and there is a single point of accountability, it really does matter that that person and the decisions they make are seen by the general public to be properly accounted for.

The aim of Amendment 14A is to allow the Minister to counteract any slide towards behind-closed-doors decision-making. That seems to be all the more important given that, as the Bill stands now, overview and scrutiny applies only once decisions have been made and not while they are being discussed. I have a very serious concern that the Bill could be used to reduce the rights of the press and public to access meetings and information, without which the general public may not be properly informed or engaged. I do not want more and more decisions made behind closed doors. The Minister herself said in Committee in reply to our Amendment 42A that,

"the decision-making has to be in public",—[*Official Report*, 29/6/15; col. 1810.]

but of course it is not just the announcement of a decision but the discussion that can matter profoundly, in that the discussion can explain how the decision was reached.

I fear that the Bill as drafted runs the risk of encouraging further secrecy outside the scope of the Local Government Act 1972 and subsequent regulations. Therefore, I hope that the Minister will agree that we should have on the face of the Bill the right of the press, the media generally and the public to attend meetings and to receive information, as is currently the standard within local government. I beg to move.

Lord Heseltine: My Lords, I see reference in the amendments to public access to officials of the council. I am opposed to that concept. I have had the privilege of serving in Government after Government and value hugely the advice that comes from officials, but I have never believed that officials always give you agreed

advice. Some do, but the composition of such advice starts at a relatively low level in the official machine. Committees and dialogues take place and a consensus emerges. That becomes the agreement that officials put to Ministers.

Often, one finds oneself in disagreement with that advice. Some of the most rewarding experiences that I have taken part in are when you get the officials to break down the consensus which has been put to you. You may find that the more-established and long-serving officials have taken a rather conservative view, while some of the younger, more energetic, adventurous or imaginative—you can use any language you like—have a more dramatic option which has been suppressed in the process. In the end, it is for Ministers to take their choice: that is what they are paid to do.

If we were to have full public access to the official process, the consequence would be that Ministers would try to ensure that they got the advice they wanted. The easy way to do that is to politicise the Civil Service or the officials in local government and to ensure that the people providing the advice do not leave you with any great issues of controversy, which will be fanned by the press the moment that they get their hands on them.

Although I am in favour of the thrust towards openness and accountability in local government, as in national government, and of the facts being widely available, I am not in favour of there being exposure of the official debate which takes place in providing advice to councillors or, in my experience, Ministers.

Lord Shipley: Perhaps the noble Lord will comment on the fact that within local government now, officers of councils are required to give advice publicly when full council meetings or council committee meetings are held, so there would be nothing new in that happening. I understand his concern about official advice being given at the point at which ideas are being developed, but will he bear in mind that the amendment states that,

"the Secretary of State shall make regulations"?

Broadly speaking, that is designed to prevent a slide towards access to the press and the general public being denied through the structures now being created.

Lord Heseltine: Unlike the noble Lord, I have never served in local government, so I cannot speak with his experience. As I understand it, officials give advice in public, but I do not think that meetings of officials before they formulate that advice are open to public or press scrutiny. I was addressing that concern when I intervened.

Lord Scriven: My Lords, I have some practical experience of this as a former council leader. When I became leader of the council in Sheffield, we had an economic development agency which met in private. Everything was in private—advice, meetings and papers—because it was deemed to be somehow arm's length and pseudo public sector. Through a very hard-fought and long battle, I thought that it was absolutely right that that was dealt with in public, because huge amounts of public money were being spent on behalf of the people of Sheffield. The reason to write this in the Bill is to open up the advice and the decisions made.

I hear what the noble Lord, Lord Heseltine, says, but exactly the same arguments were used in another place when what became the Freedom of Information Act was published. With freedom of information, a lot of the advice given now could be made public. This is just the next step concerning that type of advice. I see no reason why, if someone wishes to understand a decision in the area where they live, where multi-billions of pounds are spent on their behalf to improve their lives, they cannot be privy to some of the advice given before someone makes a decision. It is really important that both the press and the public understand the process that has been carried out to reach a decision, not just the decision itself.

My recent practical experience in local government, in an area of economic development, makes me believe that this is the right thing to do. Open decision-making is good decision-making; closed decision-making is bad decision-making, on the whole. It is really important for the press and the public to be able to understand both the decision and the process of how their taxes are spent—to know how decisions are made to improve their area. It is for those reasons, both the practical ones based on what I saw in Sheffield and to take freedom of information one step further, that it is really important that people can understand the advice given to and the process followed by politicians, the mayor or the combined authority to enable them to come to a decision.

Lord McKenzie of Luton: My Lords, we are fully committed to openness and transparency in the proceedings of local government, combined authorities and mayoral combined authorities. We would draw the line so that the same rules operated as for local government currently. We would have reservations about taking it back beyond that—certainly taking it into the area of advice.

That raises a question; I do not know whether the Minister can help us with it. When there are discussions and negotiations about devolution deals, are they in the public domain?

Lord Brooke of Sutton Mandeville (Con): My Lords, my first intervention in proceedings on the Bill were when we were discussing the same subject in Committee. There were references then, as there have been today, to the 1972 Act. The particular episode to which I referred in that previous debate was the Private Member's Bill introduced by Margaret Thatcher in the 1959-64 Parliament, which was her first real appearance on the parliamentary scene. My late noble kinsman sat on the Front Bench throughout the passage of her Bill.

I have taken an interest in the subject going back a great deal further, to that moment in 1809—we were fighting the French at the time—when the Treasury intervened to say that three particular government departments which it had nominated must by 12 noon on any day, on anything which had been in any way controversial or interesting in the morning's papers, agree the Government's position, which would then literally, in the language of government, become the line to take thereafter for the rest of the day. When I served as a Treasury Minister, the reason that I had

[Lord Brooke of Sutton Mandeville]
responsibility for the Central Office of Information went back to that fact, because it was the Treasury which had set up the system in the first place.

I want also to say a brief word about the passage of the then Greater London Authority Bill, because it was the first Bill under which the evidence of those advising councillors in local authorities could be made available to the public at large. I am not in any way intending to pour anything hostile into wounds that are long since healed, but the Minister in charge of that Bill made an extremely loyal and long-term defence of the fact that that provision was in the text of the Bill—which it was not. I am afraid that I did go on pestering the Minister in charge of the Bill—no names, no pack-drill—as to where in the text of the Bill, which we were looking at, that information was. Eventually, he broke down and admitted that they were planning to do it and were going to put down an amendment, but had not actually put down the amendment before. It was very loyal of him to have defended and covered for the junior Minister, the Minister who should have put it down.

This has long been an interest and I shall be very interested indeed to hear what my noble friend says in responding to the propositions that have been put in front of her.

6.30 pm

Lord Berkeley of Knighton (CB): My Lords, not having worked in local government but having sat on boards that involved public money, such as that of the Royal Opera House, I very much like to see open debate. On the other hand, I think the point that the noble Lord, Lord Heseltine, made is very pertinent. Sometimes, if people cannot think outside the box, as we had to when the Royal Opera House was faced with closure, what tends to happen is that the things that the proponents of this amendment want can be completely thwarted: discussion can become more closed because people are frightened of saying what needs to be said, as it will create such a storm. I am not going to come down either way on this but I see both points. As somebody who has sat on a board and wrestled with this, I reiterate that I understand the point that the noble Lord, Lord Heseltine, made.

Baroness Williams of Trafford: My Lords, Amendment 14A seeks to ensure that the public have full and free access to combined authority meetings and documents and meetings of officers regarding the discharge of functions. The noble Lord, Lord McKenzie, put it absolutely right when he said that the same rules must apply to local authorities as do to combined authorities.

The noble Lord also asked whether devolution deals would be done under the gaze of the public and cameras. I imagine that, when a deal gets to the stage of a combined authority, that decision-making process would be in full view of the public and may even be recorded in some circumstances. Certainly that is allowed now under the rules of 2014. The process of developing a deal would involve a range of discussions, as the noble Lord will appreciate, between members and Ministers and between officers and officials. Crucially, decisions on whether or not to agree to anything will, as I said, be formal decisions of the combined authority; and—devolving down further—the constituent councils would have to agree to it as well, subject to the openness and access requirements applicable to councils and combined authorities.

The Local Government Act 1972, which applies to a combined authority just as it applies to a local authority, provides that all meetings of a combined authority must be open to the public except in limited and defined circumstances. A meeting of a combined authority, as with all other council meetings, may be closed to the public only in two circumstances: first, if the presence of the public is likely to result in the authority breaching a legal obligation about the keeping of confidential information; and, secondly, if the authority decides, by passing a resolution of its members, that exempt information, for example information relating to the financial affairs of a particular person, would likely be disclosed. The normal rules about access to agendas and documents that apply to local authorities apply to meetings of a combined authority—that is, to meetings of all or some of the members of the combined authority in their role as members of the combined authority to discharge the functions of the combined authority. Moreover, the Conservative-led coalition Government made new regulations in 2014 to make clear that a combined authority is required to allow any member of the public or press to take photographs, film, audio record and report on all public meetings. This openness ensures that combined authorities are genuinely accountable to the local people whom they serve.

The amendment seeks to extend this to give the public the right to attend meetings of officers. It would not be appropriate for the public to have a right of access to meetings of officers of the authority and would be wholly impractical. My noble friend Lord Heseltine and the noble Lord, Lord Berkeley, made the point that, far from opening up options and discussions, it would seek to restrict them and close them down. It is right that officials give advice in public. I can think of one occasion—the annual budget setting—where the finance officer has to stand up and say whether or not the budget is sustainable. It is absolutely right that that is done in a public forum. However, to invade officers' meetings would be wrong. It would not happen in a council, and given that these provisions mirror the provisions for local authorities, why should it happen in a combined authority? Officers cannot discharge functions of a combined authority, in the same way as officers collectively cannot discharge the functions of a local authority. In a combined authority, as in a local authority, functions are discharged by the members, committees or sub-committees of members, or can be delegated to particular officers. It would be wholly impractical for the public to attend officers' meetings. Officers meet continually through the day to discuss issues, prepare advice for members and implement the decisions that members have taken.

I rather like my noble friend Lord Brooke's suggestion of 12 noon decision-making. I think we would get rather a shock if that came into your Lordships' House. On that note, I ask noble Lords to withdraw the amendment.

Lord Scriven: Before the Minister sits down, can I just ask one question? Is it not the case that any advice that is given, which is written down or in an email, can be requested under freedom of information legislation? What is the difference between that and debate being curtailed by allowing the public to hear the advice being given? They can request it anyway through a freedom of information request.

Baroness Williams of Trafford: My Lords, there is an informal process for discussions and there is a formal process. If something was written down in an email, it would, barring some restrictions on access to information, be disclosable under a freedom of information request.

Lord Shipley: My Lords, I am grateful to the noble Lords who have taken part in this debate, and in particular to my noble friend Lord Scriven for pointing out the importance of the Freedom of Information Act and its provisions in this respect.

I share some of the concerns of the noble Lords, Lord Berkeley of Knighton and Lord Heseltine. I understand exactly the points that are being made. However, the Secretary of State would, as part of this amendment should it succeed, be able to state in regulations how this would be managed.

This is an extremely important issue. This amendment is not asking for commercially sensitive matters to be revealed when it would not be in the public interest to do so or for informal day-to-day meetings with officers to be included. We are saying that the Secretary of State should recognise that the accountability of an elected mayor does matter. The Secretary of State should therefore regulate to ensure proper access to meetings and information to avoid a slide into greater secrecy in decision-making.

The noble Lord, Lord McKenzie of Luton, said that the same rules should apply as for local government—if I recall correctly what he said. I understand that perspective, but we are talking about a single elected person. There is no precedent for the scale of the roles to which they are about to be elected, for the reason that existing mayors in some of our cities and towns have more limited powers. Here, there is to be significant devolution of power from central government across Whitehall and Westminster. There is not even the scrutiny system that is provided within London through the GLA—and we heard from the noble Baroness, Lady Jones of Moulsecoomb, earlier about how the London system does not work terribly well. So I am still very concerned by this situation.

The public right of access to meetings and information must not be diminished as a consequence of this Bill. That is the risk that the Bill introduces. As a consequence of that, I beg leave to test the opinion of the House.

6.41 pm

Division on Amendment 14A

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6.52 pm

Schedule 2: Mayors for combined authority areas: police and crime commissioner functions

Amendment 15

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

15: Schedule 2, page 19, line 10, at end insert—

"( ) An order under sub-paragraph (2) must include provision for an appointment process for any other person who may exercise any PCC functions of the mayor."

Lord McKenzie of Luton: My Lords, the amendment requires that on page 19, line 10, we should insert:

"An order under sub-paragraph (2) must include provision for an appointment process for any other person who may exercise any PCC functions of the mayor".

This is a straightforward issue. The amendment deals with the important role of the PCC taken on by the mayor and the extent to which its functions can be passed to others. It seeks to ensure that there is a proper appointments process to put that into effect. I beg to move.

Baroness Williams of Trafford: My Lords, I thank the noble Lord, Lord McKenzie, for being so brief in moving the amendment. As he said, it seeks to insert a new provision into new Schedule 5C to ensure that the Government must provide, by order, an appointment process for any other person who may exercise any of the PCC functions of the mayor.

The amendment is not necessary because the Government have already committed on the Floor of this House to apply Schedule 1 of the Police Reform and Social Responsibility Act 2011 to metro mayor areas by order where PCC functions are being transferred. Paragraphs 9 to 12 of that schedule set out an appointments process for senior posts below a PCC, including for the post of deputy PCC. This involves the scrutiny of any proposed appointment by a police and crime panel. I reiterate that we intend to apply these provisions to metro mayors by order to ensure that such appointments are properly scrutinised in the same way. The role of the dedicated police and crime panel will, of course, continue.

However, it will almost certainly be necessary to amend these provisions to some extent before they can be applied directly to a particular metro mayor area, given the different structures and posts which might exist in different areas, hence our proposal to implement this by order. I wish to be clear that we intend that there will be an appointments process for senior posts that will be based on that set out in Schedule 1 to the Police Reform and Social Responsibility Act 2011. All posts other than that of the deputy PCC mayor, and which support discharging the mayor's PCC functions, will be subject to the standard local government requirement that appointments must be made on merit, as set out in Section 7 of the Local Government and Housing Act 1989. This requirement currently applies to all appointments made by PCCs other than the post of deputy PCC, which may be a political appointment, albeit still subject to scrutiny by the panel. Appointments to all other posts below mayor on policing matters would have to be made on merit alone, and appointments to senior posts will additionally be subject to scrutiny by a police scrutiny panel.

I hope that reassures the noble Lord and that he feels content to withdraw the amendment.

Lord McKenzie of Luton: My Lords, I am most grateful to the noble Baroness for that much longer explanation than mine in moving the amendment. It is perfectly satisfactory and I beg leave to withdraw the amendment.

Amendment 15 withdrawn.

Amendment 16

Moved by ***Baroness Williams of Trafford***

16: Schedule 2, page 19, line 21, leave out "or (e)" and insert ", (e) or (f)"

Baroness Williams of Trafford: My Lords, in moving Amendment 16, I will speak to the others in this group. Amendments 21 to 24 seek to insert new provisions into new Section 107F to clarify how the council tax requirement is calculated and precept issued in respect of mayoral combined authorities.

Amendment 21 requires that issuing the precept will always be a function of the mayor acting on behalf of the combined authority. Amendments 22 and 23 ensure that the Secretary of State can by order modify the application of Chapter 4 or 4ZA of Part 1 of the Local Government Finance Act 1992, where that chapter is being applied to a mayoral combined authority, in order to provide for the specified outcomes in respect of calculation of the council tax requirement and issuing of the precept.

Amendment 24 extends the Secretary of State's powers to make provision in an order in respect of how the council tax requirement will be calculated where the functions of a mayor include PCC functions. In these cases, we will require there to be separate components of the council tax requirement in respect of the mayor's PCC functions and the mayor's general functions. Amendment 24 also requires that the calculation of the component of the council tax requirement that relates to PCC functions is to be regarded as a PCC function exercisable only by the mayor.

By requiring that there is a separate component of the precept for PCC functions, we will ensure that the council tax referendum criteria can be applied separately to the council tax element of police funding, thereby ensuring that government has full flexibility to apply distinct council tax referendum principles for the police component of a mayoral combined authority precept in the same way as it currently does for all other PCCs across England and Wales. This would allow a mayoral combined authority the flexibility to hold a council tax referendum on the level of funding for the police specifically. These amendments will ensure broad consistency with the PCC model, in that the mayor will calculate the element of the council tax requirement that relates to PCC functions as a PCC does now, and this calculation will be subject to challenge by the police scrutiny panel. Amendments 16, 17 and 18 are consequential amendments to new Schedule 5C to reflect these changes.

Amendment 16 would ensure that only the mayor can calculate the component of the council tax requirement which relates to policing and that this function cannot therefore be delegated to a deputy PCC mayor or any other individual. This is consistent with the PCC model whereby the PCC cannot delegate such responsibilities to a deputy. Amendments 17 and 18 clarify that the Secretary of State's power to provide directions to a mayor acting on behalf of a mayoral combined authority in respect of police budgets applies only to the calculation of the component of the precept relating to PCC functions and not to the component relating to general functions. With this explanation, I beg to move.

7 pm

Lord McKenzie of Luton: My Lords, as we have heard, Amendments 21 to 24 require that there should be two components of a single precept in circumstances where the mayor for a combined authority takes on the role of the PCC: the policing and the general work component. We have heard that this separation is necessary should different referendum principles be applied to PCC precepts generally, and this is enabled, of course, because the Bill also requires separate accounting for PCC functions. Amendments 16 to 18 have been described as consequential, and we see them as being entirely reasonable.

Amendment 16 agreed.

Amendments 17 and 18

Moved by ***Baroness Williams of Trafford***

17: Schedule 2, page 21, line 10, after "to" insert "the mayor acting on behalf of"

18: Schedule 2, page 21, line 10, at end insert "in relation to the calculation of the component of the council tax requirement relating to the mayor's PCC functions (see section 107F(2A)(a) above)"

Amendments 17 and 18 agreed.

Amendment 19

Moved by ***Baroness Williams of Trafford***

19: Schedule 2, page 21, line 16, leave out "to (5)" and insert "and (4)"

Baroness Williams of Trafford: My Lords, Amendments 19, 20 and 25 make minor and technical amendments to Clause 4 and Schedule 2. They remove a reference in the Bill that is relevant to Section 107E of the Local Democracy, Economic Development and Construction Act 2009. The reference would have provided that an order made by the Secretary of State may amend, apply, disapply, repeal or revoke any police and crime commissioner enactment. Amendment 25 removes the definition from new Section 107F inserted into the Local Democracy, Economic Development and Construction Act 2009. The definition of "modify" to include amendment or repeal in relation to Part 1 of the Local Government Finance Act 1992 where the precepting authority is a mayoral combined authority is no longer necessary. These references have been removed as the express power to amend or repeal, and the amendment to the definition of "modify", are no longer needed given that Amendment 82 amends Section 117 to include a general power to amend or repeal. I beg to move.

Amendment 19 agreed.

Amendment 20

Moved by ***Baroness Williams of Trafford***

20: Schedule 2, page 21, leave out lines 28 to 30

Amendment 20 agreed.

Clause 4: Financial matters

Amendments 21 to 25

Moved by ***Baroness Williams of Trafford***

21: Clause 4, page 6, line 8, at end insert—

[Baroness Williams of Trafford]

"(1A) The function of issuing precepts under Chapter 4 of Part 1 of the Local Government Finance Act 1992 in respect of mayoral functions is to be a function exercisable only by the mayor acting on behalf of the combined authority."

22: Clause 4, page 6, line 9, leave out "Provision under subsection (1) may" and insert "The Secretary of State may by order"

23: Clause 4, page 6, line 10, after "4" insert "or 4ZA"

24: Clause 4, page 6, line 12, at end insert—

"(2A) Where the mayoral functions of a mayor include PCC functions—

(a) the provision made by virtue of subsection (2) must include provision to ensure that the council tax requirement calculated under section 42A of the Local Government Finance Act 1992 consists of separate components in respect of the mayor's PCC functions and the mayor's general functions, and

(b) the function of calculating the component in respect of the mayor's PCC functions is itself to be treated as a PCC function for the purposes of this Part."

25: Clause 4, page 6, leave out line 38

Amendments 21 to 25 agreed.

Clause 5: Local authority functions

Amendment 26

Moved by ***Baroness Williams of Trafford***

26: Clause 5, page 7, line 13, leave out subsection (5)

Baroness Williams of Trafford: My Lords, in moving Amendment 26, I shall speak to all the other amendments in the group. They are about streamlining, fast-tracking and giving greater flexibility in the setting up of combined authorities or the making of changes to an existing combined authority. Certain of the amendments also give greater flexibility in establishing or changing economic prosperity boards, which can also be established under the Local Democracy, Economic Development and Construction Act 2009. Specifically, Amendments 26, 27, 62 and 77 modify the processes for establishing a combined authority in order to provide, if circumstances warrant it, a fast-track process that, while quicker, will maintain all the necessary essential safeguards.

The current process for creating a combined authority under the 2009 Act is lengthy. Past experience shows that it can take well over a year even to reach the point of the order being made, and that is before the real implementation begins. The process involves duplication, particularly where the setting up of a combined authority is agreed as part of the conversations and discussions surrounding a devolution deal. These amendments provide a streamlined process for creating combined authorities where the risks of duplication are minimised—a streamlined process that in particular can be used where local areas have agreed to have combined authorities as part of the devolution deals which they have agreed with the Government. This streamlined process will allow them to implement the deal as quickly as possible without getting tied up in further administrative processes that do no more than duplicate the conversations and discussions that have led to the deal.

For example, a number of councils agree as part of a deal to the establishment of a combined authority. They have provided the Secretary of State with sufficient information and evidence for the Secretary of State to undertake the statutory tests: that is, to conclude that creating the combined authority is likely to improve the exercise of statutory functions in the combined authority's area, to have regard to the need to reflect the identities and interests of local communities, and to secure effective and convenient local government. Finally, all the councils in the area of the proposed combined authority consent to the combined authority. In such circumstances, the fast-track process will enable the Secretary of State to proceed to seek Parliament's approval of the necessary draft order once he has fulfilled a statutory duty to consult such persons as he considers appropriate. His decision as to who is appropriate will of course have to be taken in accordance with the well-established principles of administrative law—to act reasonably having regard to all relevant considerations.

With this streamlined process, councils no longer have to undertake the lengthy process of developing a governance review and preparing a scheme. This is not because the substance of these steps is unimportant but because that substance will have been undertaken in a different way, and the guarantee that this is so is provided by the statutory requirements of the Secretary of State to apply in accordance with administrative law the statutory tests and the statutory consultation.

These amendments also provide that where the fast-track process is not being followed and councils are developing a governance review and scheme, the process can still be more streamlined than is currently the case. The current requirement that the Secretary of State undertakes a consultation, including the clear duplication of being required to consult the very authorities that have prepared the scheme, is replaced by simple requirements that the Secretary of State must have regard to the scheme and the councils must consent to the combined authority. The Secretary of State still has the option of consulting if he considers it necessary. These amendments therefore facilitate the timely implementation of devolution deals, which will be of critical importance to areas being able to respond to the economic challenges and opportunities the country faces today. It is not an option that we have bureaucratic and time-consuming processes slowing the actions needed to grow our economy, improve productivity and increase our competitiveness.

Amendments 63, 64, 65, 76 and 78 provide certain greater flexibility and streamlining aspects of combined authorities and greater flexibility for economic prosperity boards, for which the 2009 Act also provides. Amendment 79 makes a small change to references in Sections 111 and 112 of the 2009 Act. The origin of these amendments is the draft legislative reform order that was laid in Parliament in March this year. In its report of 19 June, the Delegated Powers and Regulatory Reform Committee noted that the Bill and the LRO were operating in the same policy space, and commented that making changes through two separate legislative vehicles progressing at different speeds would present challenges. We have responded to the committee's comments and by these amendments

are now incorporating into this Bill provisions that give effect to those in the draft LRO, and are withdrawing the LRO.

The amendments do three things. First, they enable local authorities that do not have contiguous boundaries to form combined authorities and economic prosperity boards if the statutory tests are met. They also allow the creation, if the statutory tests are met, of combined authorities and economic prosperity boards that have a "doughnut-shaped" area. Secondly, they enable a county council in a two-tier area to be within a combined authority for only part of its area where that area coincides with one or more districts. Thirdly, they provide that minor changes to the funding, constitution or functions of an economic prosperity board can be prompted by the councils asking for such a change.

All these amendments streamline and facilitate putting in place the governance needed to support the devolution of powers to areas, helping areas grow their local economies and improving the efficiency of local public services. I commend them to the House and beg to move Amendment 26.

Lord Tyler (LD): My Lords, I shall speak to Amendments 62 and 77 in this group. First, I very much appreciate the Minister's explanation of the reason for this group and I particularly welcome the fact that the Government have moved so quickly to amalgamate the previous draft LRO with the Bill. In my view, that is extremely important.

I think the Minister knows that I serve on the Delegated Powers and Regulatory Reform Committee. As an individual, I very much welcome that she has been able to respond so quickly. However, I think she will also know that this afternoon the committee met especially to look at the latest set of amendments. Amendments 62 and 77, to which I want to draw attention, were in one set of amendments that we looked at today.

I am obviously in some difficulty; I cannot refer to the precise recommendations of the committee because they will be reported to your Lordships' House tomorrow, which is really my point. It would be quite wrong for us to move on those amendments without having seen the recommendations of your Lordships' committee. However, I can refer briefly to the importance of these amendments. Amendment 62 would introduce a new clause which would make substantial amendments to the Local Democracy, Economic Development and Construction Act 2009. It would do so in a way that quite deliberately dilutes the provisions for consultation.

I think all Members of your Lordships' House who have been following this Bill are well aware that wide consultation, which was a requirement of that previous Act, is central to the acceptance of this Bill in its current form. The dilution of those very important provisions in the 2009 Act seems to me to raise important issues. The Minister has been talking at some length about streamlining and fast-track. I am always a little apprehensive about fast-track streamlining because it usually means a sleight of hand. I fear that in this case that is precisely what is in place. If we are not to have the effective consultation provided for by the previous Act, at the very least we need a full explanation. We have not yet had that and I do not think we can expect to have it until the Minister has had an opportunity of seeing the report from the committee, which will be published tomorrow.

I understand only too well that in the speed with which the department has had to composite—I think that that is the appropriate word—the LRO from the provisions in the Bill, it may well simply have been a mistake that this consultation process has been, in the words of the Minister, streamlined. That raises very important issues that Members who have been following the consideration of this Bill throughout will wish to look at again in the light of the report from the Delegated Powers and Regulatory Reform Committee. Since that will not be available until tomorrow, I hope the Minister will at least agree that there should be, as there can be under the rules of the House, a further debate on these clauses on Wednesday. I certainly would reserve the right to speak. as an individual of course but with the information that will then be available from the committee, when these come before us again on Wednesday. I hope that the Minister will recognise that that is a perfectly appropriate way for the House to proceed.

7.15 pm

Lord McKenzie of Luton: My Lords, it is a great pity that these proposed changes have come forward very late in the day. Certainly, for some of those not caught up in regulatory reform, we will have to unpick some of the intricacies of the Local Democracy, Economic Development and Construction Act 2009. Even with the aid of a Keeling schedule, that takes some time. I perhaps go further than the noble Lord, Lord Tyler, and say that, rather than preserve some right to have a further debate on Wednesday, we should be entitled to come back to this at Third Reading if necessary. A lot of new stuff has been introduced. I would certainly like to take the opportunity of reading what the noble Baroness has said on the record so that we can get our minds round all that. It is not absolutely clear in every respect.

As I understand it, in terms of the key provision, Amendment 62 will provide a fast track to the establishment of a combined authority. Amendments 63 and 64 concern the removal of geographical restrictions on EPBs and combined authorities, and Amendment 65 covers changes to existing economic prosperity boards. We see the benefits of being able to move more swiftly perhaps than circumstances hitherto have permitted, but we need to stand alongside that a caution about not abandoning parts of that process which have made a valuable contribution to the judgments that have been made today.

Amendment 62 would provide an override of the existing requirements of Section 109 to undertake a review and prepare and publish a scheme for combined authorities, which I think the noble Baroness confirmed. That would seem to reverse the current process so that the initiative is with the Secretary of State, who still has to make a judgment about whether a change would improve the exercise of statutory functions in the area. We have had introduced—I think for the first time in our consideration of this Bill—administrative law and what that requires in terms of consultation

[Lord McKenzie of Luton]
and other matters. I am bound to say that we need a little time to fully understand what all that entails. Even under the amendment,

"the Secretary of State must have regard to"—

perhaps the Minister can expand on that obligation—a Section 109 scheme if one has been published. If not, what is to underpin the Secretary of State's judgments? The Minister went through a range of issues in making her presentation. We would certainly like the opportunity to study what is on the record in that respect.

There is the prospect of the Secretary of State consulting persons he considers appropriate, "if any", and the constituent councils having to agree. But it is unclear what analysis or review the Secretary of State will look to in making that judgment. What is to stop the fast-track approach becoming the norm? Perhaps that is what is intended. Will the Minister confirm whether that is the intention in this regard and that the previous or existing process will now be replaced in total by this fast-track process? Clearly, some further information will come when we get the report of the DPC. We cannot reasonably conclude our deliberations without sight of that report and advice.

Amendment 63 deals with EPBs and Amendment 64 with combined authorities. They appear to address the same issue of geographical restrictions on what can be included in an area. For example, for combined authorities it relaxes the current requirements that the local government areas of a combined authority must be contiguous and that no area not in the combined authority can be surrounded by local authorities that are. As I think has been confirmed by the Minister, this would appear as a "doughnut" formation, or as a combined authority formed from areas that are geographically quite far apart. However, in applying the new rules, the Secretary of State must have regard to the likely effect of the new arrangements on the exercise of equivalent functions in any adjoining local government area. We have no detail on how this test is likely to be applied; perhaps the Minister will say more on that.

Generally, some flexibility on the geographical construction of the combined authority should be welcome, provided there is protection for those authorities that might be surrounded, for example. Given that we are on Report, I was about to say that this would perhaps have to be sorted out in another place, but on reflection I do not think that that is right. The noble Lord, Lord Tyler, is right that we should have a further opportunity to pick up these important issues on Report or at Third Reading. They may be fairly brief amendments, but they touch on the processes that have operated hitherto. To clarify: we are not trying to make life difficult in this respect, but we need to understand the detail of what is proposed and the safeguards that will be there to balance the speedier process that these amendments seek.

Lord Woolmer of Leeds: These proposals are enormously important. I hope very much that we will have time to consider them and to reflect, but I see them as potentially extremely helpful, certainly to Yorkshire.

I will ask for clarification on two matters, but I will study the detail more carefully over the next couple of days. First, I assume that these proposals will apply to extending a current combined authority area, as opposed to establishing a de novo combined authority. I assume that they would apply if an existing combined authority area wished to have discussions to extend its boundaries. Secondly, if I understood the Minister correctly—I apologise that I have not read the proposals in the detail I should have—they would enable an existing combined authority to extend its boundaries, either with contiguous shire districts or potentially even to an authority that does not adjoin the existing combined authority; the word "doughnut" was used. It would be helpful for me to understand whether that is the case.

These are enormously important proposals and a lot of people will be extremely interested to understand them. They could be very helpful in making combined authority areas make a lot of sense in economic terms. Some existing combined authorities, while very useful, could do with extension to a degree.

Baroness Williams of Trafford: It might be helpful to noble Lords if I say that Amendments 62 and 77 are expected to be reached on Wednesday. They are after Clause 9. Therefore, there will be an opportunity to discuss them then if noble Lords wish.

The noble Lord, Lord McKenzie, asked about fast-tracking becoming the norm. The amendments have been proposed to enable deals where constituent councils are content to approve deals that are ready, not to rush other areas that might take a bit longer. He also asked what underpins the Secretary of State's judgment if there is no scheme. It will be the information and the evidence available in the deal. If insufficient information is available for the Secretary of State to make a judgment on whether the tests are met, then the fast-track process cannot be used.

The noble Lord, Lord Woolmer, asked two very useful questions. One was on changing an existing combined authority. The answer is yes, existing combined authorities would be able to be non-contiguous or doughnut-shaped; I am glad he will find that response helpful. He talked about non-adjoining areas. The answer is also yes, that will be possible. I hope that that assists noble Lords.

Lord McKenzie of Luton: Before the noble Baroness sits down, could she clarify this? I think she said that we would reach Amendments 62 and 77 on Wednesday. According to the groupings list, they are in the group that we have just discussed.

Baroness Williams of Trafford: My Lords, the amendments would be after Clause 9, so they can be discussed then if noble Lords wish.

Lord McKenzie of Luton: We would be very happy to have a further discussion—it is vital that we do—although we would be squeezed for time on Wednesday with lots of other big issues. I thought from what the noble Baroness said that these amendments are not included in the group that we just discussed. According to the groupings list, they should be.

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): It might help the noble Lord if I point out that even though the amendments are in this group, if they are to be taken on another day it is open to any Lord to raise them when they are called.

Amendment 26 agreed.

Amendment 27

Moved by ***Baroness Williams of Trafford***

27: Clause 5, page 7, line 20, leave out subsection (7)

Amendment 27 agreed.

Consideration on Report adjourned until not before 8.27 pm.

Universal Credit (Waiting Days) (Amendment) Regulations 2015

Motion

7.27 pm

Moved by ***Lord German***

That this House calls on Her Majesty's Government, in the light of the Social Security Advisory Committee's Report of June 2015, to remove the housing element of the Universal Credit (Waiting Days) (Amendment) Regulations 2015, in order to mitigate the harshest impacts of the policy (SI 2015/1362).

Relevant document: 3rd Report from the Secondary Legislation Scrutiny Committee

Lord German (LD): My Lords, I move this Motion because these regulations introduce additional waiting days before the first payment of universal credit. The period of waiting for this first payment is added to the already-existing waiting period of one month, plus the application and approval period before the award is made. In total, it is estimated that most applicants will wait about six weeks after an application before receiving their first payment.

The Government's own Social Security Advisory Committee produced a very powerful and thorough report on these regulations. It had full consultation and went into great detail. It recommended, first, that these regulations should not proceed; and, if they did, that housing benefit should be removed from the waiting period. In their Explanatory Memorandum the Government agree that these waiting days are a cost-saving measure. This Motion asks the Government to agree the minimum change that the Social Security Advisory Committee asked for, to deal with the harshest parts of the policy. We on these Benches believe that a primary purpose of our social security system is to provide a safety net, to provide protection for those most in need who need help when sickness or unemployment hit them.

7.30 pm

As well as the Social Security Advisory Committee's report, we can also draw on the reports of the House of Lords Secondary Legislation Scrutiny Committee: not one, not two but three reports—and that on a piece of legislation which is subject to the negative procedure. The second of its reports contains strong criticism of the Government, saying that the Government's response to its first report was,

"disappointing in that it largely repeated material already received by the Committee from the Department. The House may … wish to press the Minister for a better explanation".

I hope that this debate will provide an opportunity for the Minister to do just that.

The effects of this piece of legislation will be: first, to push people to use food banks; secondly, to increase rent arrears; thirdly, to turn people to payday lenders; fourthly, to produce budgetary problems for registered social landlords and private landlords; and, finally, to lead to fewer private landlords taking benefit tenants. In that respect I have recently seen in the window of a rental property a notice saying, "No DSS permitted here". Such notices used to appear some time back and I thought that we had dealt with the issue many decades ago.

There are major differences between the current waiting days schemes for jobseeker's allowance and employment and support allowance and the universal credit scheme proposed in this legislation. Principal among those differences is that the old system related to a single benefit during a period of unemployment. The proposal in this legislation relates to universal credit, which brings together six existing benefits. These include tax credits and housing benefit as well as support for the current jobseeker's allowance. So universal credit, unlike jobseeker's allowance or employment and support allowance, covers both in-work and out-of-work benefits, and spans across a range of existing benefits, some of which are not currently subjected to the waiting days regime, in particular housing benefit.

The Social Security Advisory Committee rightly pointed out that claimants faced with a long wait for their first payment will prioritise feeding their families over paying the rent. Waiting time overall for that first payment will be in the region of six weeks—much longer than the monthly payment for the in-work system which universal credit is trying to emulate. The Government's position on monthly benefit payments replicates how most people in work receive their pay or salary—but monthly means monthly, not six-weekly. For many workers, that means receiving your pay at the end of the month even if you have started work some way through that month. Very few workers would expect to have to work for six weeks before receiving their first pay. This waiting proposal is about people having no incoming money to budget for essentials such as food, utilities and rent.

The Government have an interesting policy on exceptions to their legislation. They tell us that they want a blanket policy with a limited number of exceptions. That is their stated ambition. They say that they want a simple and fair rule and that it will be difficult to state all the circumstances in which an exemption could apply. In view of this, I wonder how the Minister reacts to the statement in the Social Security Advisory Committee's report that,

"the Government's decision to set out a limited set of exemptions (with no further discretion) … is unexpected".

[LORD GERMAN]

The Government's stated principle for this policy as a whole is that benefits are not intended to provide financial support for very brief breaks in employment or periods of sickness. They state that they would expect people to use their own resources to fund themselves during that period. However, people will not typically have savings to cover a six-week shortfall and pay basic living costs, which will include paying the rent.

HSBC reported in a substantial report just a few years ago that,

"34% of the UK population have savings of £250 or less".

It further states that they do not have the means to cover a week's rent, let alone six, or living costs if the breadwinner's job were to end. This headline on savings is backed by a number of other studies referred to in the Social Security Advisory Committee's report. For example, the Resolution Foundation found that more than half of low and middle-income households—middle-income households are crucially important in this—had no savings at all, and that two out of three had less than enough to see them through a month, let alone six weeks.

The Government intend that the waiting days will apply only to new applicants for universal credit, and say that most will already be receiving one of the legacy benefits, and therefore will not be treated as new applicants. Those who are not, so the Government allege, will be able to cover the six-week period without any money coming in from their savings. However, the evidence for these savings is clearly not there.

Further, as this Government's £12 billion cuts to the welfare budget are implemented, there will be further erosion of the legacy benefits such as tax credits—so, if the Government achieve their policy aim of reducing the number using tax credits, there will be an even greater chance of people making new applications for universal credit. As it is, the Government estimate that 880,000 new claims will be made each year: that is the number of households the measure will affect. This could be a substantial underestimate of the number of claims there will be when the Government's welfare reductions work their way through.

This measure will have a number of practical effects on families, households and others. The first concerns the availability of advance payments. The House of Lords committee today published a letter from the Minister on this matter, and the Government are praying this in aid. But last year, under the legacy system of benefits, two out of every three applications for an advance on benefits to help applicants cover the period when they were without any money were turned down. The explanation provided to your Lordships' Secondary Legislation Scrutiny Committee in the last few days offers little hope that applicants will do any better under universal credit.

Another practical effect of the measure will be to create a disincentive for people to take a job with a six-month contract as it would mean them having to put in a new application. Rent arrears will inhibit free movement of labour. If you choose to prioritise feeding your family or ensuring that you have basic utilities such as electricity and gas in your home, and subsequently build up rent arrears, that will reduce your ability to spend money on moving around to find a job because you owe rent where you currently live, so things will be even worse for you. Similarly, it is clear that because of the variation in rents around the country, claimants in high-rental areas will suffer most.

It is also clear that there will be some fiscal displacement. Additional costs, which the Government are not going to cover, will be passed on to charities and local government, which have to cover the costs of emergency housing and of supporting people, particularly where children are involved. Basically, there will not be an absolute saving to the public purse because those costs will be passed on to other bodies and agencies, particularly hard-stretched local authorities.

In conclusion, your Lordships' House can send a strong signal to the Government tonight that it expects this waiting-period policy to be changed because it will force people to use food banks, because it will push people towards payday lenders and because it will put people into rent arrears and into a cycle of debt. I beg to move.

Baroness Sherlock (Lab): My Lords, I thank the noble Lord, Lord German, for moving his Motion and for explaining to the House the effects of this measure. I will not detain the House by repeating that explanation. I also understand his desire to mitigate some of the effects of these provisions by seeking to exclude the housing element of universal credit from the regulations, but I think that there is a better way to approach this so I have taken a different direction in my Motion and I will explain why I think the House should agree. I am also being ever-optimistic, hoping that the noble Lord, Lord Freud, will find this a more persuasive case and that by the end he will rise up and cheer in agreement and obviate the need for a vote at all. I shall do my best.

The starting point for Labour is that we support universal credit. We think it is a good idea. Bringing together separate working-age benefits can potentially make the system simpler and should make it easier to work out whether and by how much you would be better off in work. But because we support it, we want it to work, and we understand that to work it needs to get off to the best possible start. Sadly, that has not happened.

When the Welfare Reform Act was going through Parliament, noble Lords from across the House, from all Benches, pointed out to the Government at different stages some of the risks inherent in the approach they were taking and made various suggestions for how the Bill could be improved. Sadly—as we all think—had these been listened to, we might not be in the position we are in now; none the less, things are not looking brilliant. Unfortunately, once the legislation was in, things did not improve. Delivery has been disastrous from the outset, starting with an implementation plan which the Opposition pointed out to Ministers right at the beginning was hopelessly overoptimistic.

The July 2010 Green Paper on universal credit even included the claim that the IT changes necessary to deliver it,

"would not constitute a major IT project".

In retrospect, the naivety of Ministers in signing off the plan is extraordinary. Since 2011, £130 million of taxpayers' money has been written off because of failed universal credit IT. The Government still have not published any of the details of how they are going to spend this £12.8 billion budget, having repeatedly claimed that universal credit was on time and on budget when patently it was neither.

What of the impact on claimants? In November 2011, Ministers announced that 1 million people would be claiming universal credit by April 2014 and the project would be fully rolled out to 7 million people within six years, by 2017. But now there are only 65,380 people claiming universal credit and full rollout is still some way off. It is in this context that these regulations have been laid.

The noble Lord, Lord German, cited the damning report from the Government's Social Security Advisory Committee, as well as the concerns expressed by our own Secondary Legislation Scrutiny Committee. As he explained, the provisions will extend the waiting time to seven days. They are already in place for jobseeker's allowance and employment and support allowance but those are normally paid fortnightly and, as the noble Lord, Lord German, explained, the universal credit system is paid monthly and people could find themselves waiting six weeks for money, and at that point getting an amount of money equivalent to only a month minus seven days' allowance.

When the Social Security Advisory Committee looked at the regulations and recommended, unusually, that they should not be made, the Government's only response was that they did not accept the SSAC's recommendation because the risks were outweighed by the benefits that could accrue from reinvesting the savings in measures to help claimants get into work. When the scrutiny committee pressed them on this and said in that case could they explain how they were going to spend this money, all the Government would say was that during 2015-16 they would commit only to spend the money in this way but they would not give any plans for subsequent years or any detail about how the money might be spent. Since that appeared to be the Government's only defence to the SSAC's report, it is, frankly, unreasonable for them not to have offered more information when asked to do so by the scrutiny committee.

Can the Minister give the House the kind of detailed breakdown of costs and savings that he was specifically asked for by the scrutiny committee—repeatedly—and which he simply failed to give? The change is described as a "save to spend" measure, which will save £150 million a year once universal credit has been rolled out. The savings will fund measures to get people off benefit and into work. Those savings are predicated on the full rollout to 7 million people. We have 65,000 people so £150 million does not seem a reasonable assumption for the savings at the moment. Will the Minister please tell us? If the figure is proportionate, the back of my envelope suggests that it would cost £1.4 million. I presume it is not proportionate but I invite the Minister therefore to give us an up-to-date estimate of savings in this and the next financial year. The scrutiny committee asked for this but he simply failed to do it.

The only other bit of financial information I could glean was in the Budget costings, which said that the Government would have to spend an extra £5 million if the start of these regulations was delayed by a month. Is that a good way to extrapolate the cost and, if so, will the Minister explain it to us? As the noble Lord, Lord German, pointed out, the Social Security Advisory Committee said that the DWP should give claimants more information about how to get an advance. The Government said they would look at that in the digital process, where nothing is mentioned, so will the Minister tell us what is going on?

7.45 pm

In summary, the critiques have suggested that when the regulations were published, there were problems with the impact on claimants waiting six weeks. They have also pointed to the lack of information about the number of people affected, the costs rolled out and the savings that are to be made, as well as the lack of detail to back up the Government's claim that they were going to reinvest savings—there is no information on whether they are going to be reinvested every year, spent on something new or used to offset the existing already-planned activity.

That would have been bad enough but the picture has got worse since then. The Government were also criticised for not producing an impact assessment. Even if they had done so, in the past week it would have become completely out of date because the Budget contained a whole raft of measures that will have a significant impact on universal credit. These include: freezing the main rate of universal credit and the limited capability for work element for four years; reducing the benefit cap; removing the family element and restricting the child element in universal credit; extending conditionality rules in universal credit to parents of three and four year-olds; reducing the work allowances in universal credit; and ending the automatic entitlement for out-of-work young people.

Cumulatively, those measures could have a significant impact. Will the Government tell us what that impact will be? For example, will the Minister tell us if the total caseload on universal credit is likely to change? Will he tell us what the impact will be on the average entitlement to individuals? Will he tell us if work incentives or gains to work will change? It is hard to imagine they will not, given that the amount you are allowed to earn before you lose your universal credit is coming down; and the taper means that that money is going to be taken away from you much more quickly. What change is that going to make? If we do not have that information, we are being asked to fly without radar.

Universal credit is only an infant. It is barely crawling. It will be March or April before it is even rolled out to all single unemployed claimants, never mind families with children and all the complex cases that will come thereafter. Once families are included, the size of awards will rise significantly, as well as the number of claims being processed. The Government will also have to invent and deliver a mechanism for getting free school meals to claimants since they are currently attached to benefits that are being abolished. The same applies to all the other passported benefits that are similarly attached. What happens if, as universal

[Baroness Sherlock]
credit scales up from 65,000 people to 7 million people, the IT system slows down and benefits are delayed for even longer than the six weeks referred to by the noble Lord, Lord German? What happens then to the system of delaying payments?

In other words, we simply do not yet know if universal credit is going to work and what the full range of implications will be so I urge the Minister to think very hard before pressing ahead with the regulations. At a time of such uncertainty and such pressure on his beloved universal credit, is this really the time to step ahead with these measures? Would it not be more responsible to wait until universal credit has been rolled out, has been seen to work and is working properly? The Minister could then come to Parliament and show us it was working and at that point we would be in a position to understand the consequences.

I return to where I started: we in Labour back the idea of universal credit. We want it to work but it has had a very shaky start, it is still deeply unstable and its future has suddenly been thrown into severe doubt and confusion by the Chancellor in his summer Budget. Why put yet another burden on it at this difficult time? I urge the Minister to think again. Millions of people will eventually depend on universal credit. They need it to work so that they can work and live and pay their rent and feed their children. For their sake, the Minister should step back from this measure today.

Baroness Thomas of Winchester (LD): My Lords, this debate perhaps illustrates why the way in which the House scrutinises important, not to say controversial, statutory instruments is not satisfactory and is rising to the top of the procedural agenda. I know that there is a move afoot for a delaying power; in fact, we now have the Motion of the noble Baroness, Lady Sherlock. I have also put forward what I believe is a better way of debating controversial SIs, with advisory amendments being suggested. But for the moment these two types of Motion, moved by my noble friend Lord German and the noble Baroness, Lady Sherlock, are the best that we can do without killing the regulations. However, I should make it clear that I see no merit in the Government's proposals at all. It is tempting simply to recommend that the regulations be annulled. The suggestion in my noble friend Lord German's Motion for removing the housing benefit element from UC waiting days, from the Government's very own advisory committee, is the very least that the Government should do. However, I will support the Motion of the noble Baroness, Lady Sherlock, as the second-best option after that.

The purpose of the Social Security Advisory Committee is to advise the Government on secondary legislation and to issue occasional reports in this area. Its report on these regulations details what it calls "compelling evidence" as to why they should not proceed, received in response to its consultation. The Government's reasoning is that the new arrangements refer only to new claims for universal credit made after 3 August this year and do not apply to certain vulnerable groups or those migrating to UC from existing benefits. They therefore believe that those who qualify for UC by a means test are likely to have savings to fall back on because they will be,

"coming from the world of employment".

In any case, they then say rather vaguely,

"advances of benefit will be available to help those who are in financial need".

This is a thoroughly misleading sentence which turns out not to be entirely true, as I shall demonstrate.

We are told that the principle behind the waiting days policy in UC is,

"not designed to provide cover for moving between jobs or brief spells of unemployment",

although this somewhat sniffy comment does not take account of the fact that universal credit, like PIP, is an in-work as well as an out-of-work benefit. I have been very fair to the Minister by spelling out the Government's rationale for the policy. So why is the policy being questioned by not just the SSAC but our very own Secondary Legislation Scrutiny Committee? I prefer to call that committee by its old name, the Merits Committee, because the clue as to what it does is in the name. I am very pleased that the chairman of the committee, who has been writing letters to the Minister, is here.

The committee has been like a terrier with a bone. First, it points out that, as the noble Baroness, Lady Sherlock, said, no impact assessment giving costs and savings has been provided, so there is insufficient information to gain a clear understanding of what is going on. I take the noble Baroness's point that the impact assessment would in any case probably be out of date but that is no excuse for the Government not having done it. The equality assessment is not a substitute for a properly done impact assessment. There is a glaringly obvious example of why an impact assessment is vital. The Government maintain that benefit advances are available for those in financial need, as I said just now. But the SSAC report tells us that the Government admit that advances will not be available to everyone, especially not to those who will not be able to afford the repayment. So what will these people do when they are left with no money for six weeks while almost certainly having debts, being in danger of being thrown out of their accommodation for non-payment of rent and with no food?

No wonder the Government have not done an impact assessment. If they had done one properly, they would have had to admit that there will indeed be extra burdens on landlords, local authorities—particularly if they have to give out loans—housing charities and food banks, and quite possibly the police and health services. But, I hear the Minister saying, "These are people from the world of work, surely not those at the bottom of the pile. They must have some savings, mustn't they?". But the evidence provided to the SSAC does not back this up. As my noble friend Lord German said, research by HSBC showed that 34% of the UK population have less than £250 in savings and do not have the means to cover a week's rent and living costs if the breadwinner's job were to end. Scottish Widows found that of those with no savings, two-thirds had debts. There are lots of similar comments. We also know what happened when there was a computer glitch at RBS recently: many of its wage-earning customers said that they could not manage to pay their outgoings, even for a very short time.

The SSAC report sums up the argument by saying that the question as to the balance between those with sufficient savings and those without has not been resolved in the supporting paperwork from the DWP. What the Government seem not to have understood is that what they call the "world of employment" might mean a very low-paid job in an expensive place such as London.

Turning to the crucial question of the housing benefit element of UC, the SSAC says:

"The fact that the Committee received so many submissions from landlords and their representatives is an indication of the degree of anxiety that has been generated in the housing market by this proposal".

The Cornwall Residential Landlords Association is more forthright. It says:

"Many landlords have expressed concern about the payment of Universal Credit at the end of a calendar month leading to late payment of rents and other bills. Adding a further barrier to claimants being able to meet their financial obligations is likely to result in an increase in the number of landlords no longer willing to accept these people as tenants",

as my noble friend Lord German said. It added:

"The increased risk of homelessness will add to the costs of policing and health services".

The Notting Hill Housing Trust also makes the point that having rent arrears has the potential to inhibit the free movement of labour, thus hobbling those who are looking for work in as wide an area as possible.

Turning back to the absent impact assessment which should have provided costs and savings, the Minister's letter to the chairman of our secondary legislation committee gives us more information. It says that the anticipated savings will all be spent in giving additional support for claimants in Jobcentre Plus offices but we have heard before of all the support that claimants are now supposed to be getting from JCP offices. As for the impact assessment not having been done, the reason is given that the legislation does not directly impose obligations on public or private bodies. In other words, it is almost admitted that parts of impact assessments are tick-box exercises, often not worth the paper they are written on. That is something those of us interested in statutory instruments know all about.

However, I am concerned not just with process but with the end result. I fear that the result of the Government proceeding with this arrangement will be real hardship for many of those affected. The Government do not seem to acknowledge that many UC claimants will have been trying to find work before they apply, which makes this proposal particularly harsh. I urge the Government to withdraw the regulations—and if not, to take the housing benefit element out before pressing ahead.

Baroness Lister of Burtersett (Lab): My Lords, I support my noble friend Lady Sherlock's Motion. However, I am sorry that the noble Lord, Lord Kirkwood of Kirkhope, was not able to go ahead with his original fatal Motion, not least because when we debated the earlier waiting days regulations on 19 November, I promised that I would see him on the barricades were he to do so. I, too, oppose these regulations. I will inevitably be repeating some of the arguments already put so ably, but I hope to provide reinforcements in doing so.

I accept that the universal credit regulations will affect fewer people than did those for JSA/ESA, because of how universal credit operates. However, as we have heard, those who are affected stand to be hit harder because of monthly payments and because the universal credit payment includes more elements—in particular housing, to which the Motion of the noble Lord, Lord German, which I also support, relates. The payment also includes childcare costs and children's allowances.

As the Child Poverty Action Group—I declare an interest as its honorary president—points out in its evidence to SSAC, this means that those with high housing costs and/or with children will be particularly adversely affected. In addition, SSAC points out that carers and lone parents of children aged under three, who do not have to serve waiting days on income support, will have to do so on universal credit.

8 pm

In its response to SSAC, the department disputed SSAC's point that the increase in the number of waiting days will decrease the initial amount of universal credit paid. But in our last debate, the Minister stated clearly that waiting days are "days of non-entitlement". Moreover, if there is no effect on the amount paid, where do the savings of £200 million—or £150 million—come from? Both figures were given to SSAC by the department, as the Secondary Legislation Scrutiny Committee pointed out, noting that such a discrepancy is not good enough. My noble friend has already asked about this, and perhaps the Minister will clarify what the exact savings are. If there are savings, someone is losing out. Perhaps I am being dense here, but it seems to me that this £200 million, or £150 million, will be taken out of the pockets of claimants at a time of particular vulnerability and also out of local economies, given that this money is likely to be spent as soon as it is received.

SSAC and those who gave evidence to it questioned the department's argument that it is reasonable always to expect people to use their last earnings to tide them over, particularly given the nature of today's labour market. The impact assessment for the last set of regulations showed that those on lower earnings are more likely to have been paid weekly rather than through the monthly wages on which the whole universal credit policy is premised. It also shows that only 36% of affected JSA claimants had savings of £100 or more to tide them over. The majority had less than £100 and, in the DWP's own words,

"could be deemed to be less resilient in a vulnerable time just after losing work".

But that potential vulnerability does not seem to concern the department. I also asked the Minister during our earlier debate whether the DWP had any information on the numbers leaving work in debt or arrears. He did not, and I wonder whether any effort has been made to find out that information subsequently, given its relevance to the matter in hand.

Of course, the official line is that short-term benefit advances are available. But CPAG noted that its research with Tower Hamlets Foodbank identified problems for claimants accessing them. I know that, in response to the Feeding Britain inquiry, the department is supposed

[Baroness Lister of Burtersett]

to be addressing these problems. Can the Minister answer the question posed by the inquiry in its follow up report:

"What progress has the Government made in improving awareness and, as importantly, take-up of Short Term Benefit Advance payments to bridge the gap between a claim being made and a first payment being received"?

Welcome as any such progress might be—I hope we will hear that there has been progress—as CPAG points out, this new waiting day policy is putting the short-term benefit advance to a different use than originally envisaged. Its report says that,

"rather than ameliorating a delay, it will be used to substitute for entitlement",

and that, as such,

"it will be a loan, to be repaid in full".

As a result, it says:

"This proposed solution will simply spread the financial loss to families over a longer period of time".

Moreover, the Secondary Legislation Scrutiny Committee highlights a nasty little Catch-22, which the noble Baroness, Lady Thomas, has already pointed to:

"Advances will not be paid to those … who will not be able to afford the repayment".

As the committee observes:

"The DWP does not explain how someone in this … category is expected to manage".

Perhaps the Minister could do so now.

SSAC also noted that part of the rationale for the policy, as first outlined by the Chancellor of the Exchequer, was that people should spend the first few days out of work looking for a job rather than signing on. However, the committee warns, on the basis of the evidence it received, that,

"a family that has little or no resources with which to manage during a period of up to six weeks, exacerbated by the waiting day rule, will inevitably focus on survival rather than looking for work".

The committee also points out that the family could then risk sanctioning. This really could be a counterproductive policy, as Crisis underlines in its briefing.

SSAC was very concerned about the likely impact on health. As we have already heard, no impact assessment has been provided, on the bizarre grounds that,

"there is no impact on business or civil society organisations".

Try telling that to the landlords and food banks—that is not how they see it. As the Secondary Legislation Scrutiny Committee notes,

"chapters 4 and 5 of the SSAC report … set out clearly the extra burdens anticipated".

For all these reasons, as we have heard, SSAC was unequivocal in its rejection of the regulations,

"based on the persuasive and compelling evidence presented to us".

It praised that evidence for its richness and praised the efforts made by respondents to consult more widely. The Secondary Legislation Scrutiny Committee branded the woolly reasoning given by the department for not accepting SSAC's recommendation as "unsatisfactory" and suggested the House might wish to press the Minister for more information as to why it did not accept the recommendations.

Will the Minister also tell your Lordships' House how many times SSAC has rejected draft regulations outright? I may be wrong but I do not think it is very common, and it is particularly telling that it is a committee largely appointed by the current regime at the DWP that has done so. I congratulate SSAC on taking this stand and thank it and all who gave evidence to it. Given that we are unable to reject the regulations tonight, I very much hope that your Lordships' House will support my noble friend's Motion so that, rather than the department steaming ahead in the face of the compelling arguments put by SSAC that the regulations should be rejected, the policy can be reviewed in the light of experience after the completion of the rollout of universal credit.

The Lord Bishop of Portsmouth: My Lords, I and others from these Benches have welcomed the principle of universal credit, and I readily do so again. However, the best of policies and principles have practical consequences which make all the difference to the effectiveness of policy. In that constructive spirit, wishing universal credit to be successful in simplifying the complexity faced by benefit claimants and confirming the dignity of work at a decent rate of pay, I add some reservations to the extension of waiting time to seven days.

Delay in receiving first benefit payments has been an issue for many years. Inevitably, and sadly, there can be administrative delays. I am not aware that any assurance has been given that universal credit processes would prevent such delays; indeed, I doubt that any such reassurance could be given. Process, technology and human error are realities. Compounding these with longer statutory waiting times will exacerbate the problem. We should be reticent about further lengthening that wait, at least until delays consequent on the new universal credit process and procedures are ironed out. It would be rash, given our general experience, not to expect some continuing transitional challenges. There are some worrying instances and worrying delays. That is not to attribute blame—rather, it is to remind ourselves of the importance of extensive and ongoing training for those involved in assessing applications and advising on helplines. I hope the Minister might confirm ongoing commitment to this.

Some caution about extending waiting times is therefore appropriate. Furthermore, whereas, as we have heard, jobseeker's allowance provided for a waiting time of a fortnight, universal credit has a month before first payment is reached. Carers and lone parents have not previously faced a waiting time rule at all. Not all those affected will benefit from redundancy payments or have the cushion of savings. Though some will, a compassionate and just system provides for the worst cases and for those most vulnerable. A job search, which we would wish to encourage, costs money.

The welcome advantage that universal credit encompasses a number of previously independent benefits, which in almost every way is a huge step forward, is in this instance, perversely, a disadvantage. The consolidated nature of universal credit being awaited by a claimant means that the payment being delayed is likely to be a very significant part of income.

As I understand it, the intention of the noble Lord, Lord German, and the noble Baroness, Lady Sherlock, is to moderate the impact of these proposed changes—to moderate risk. On balance, I have some anxiety that the first amendment risks complicating universal credit arrangements by excluding housing benefit from the regulations. It seems to go a bit against the grain of simplifying the benefit system. The second amendment, delaying enactment, gives some time to assess the impact of moving to monthly payments and any protection needed for vulnerable groups, for instance. I hope that the Minister can consider agreeing to a delay to allow for some learning in transition to what I trust will be a significant step forward in supporting those in need through universal credit into work at a decent living wage.

Lord Kirkwood of Kirkhope (LD): My Lords, I shall make a brief intervention in these two important debates. I congratulate my noble friend and the noble Baroness, Lady Sherlock, on securing the time. I should perhaps say at the outset—and the noble Baroness, Lady Lister, rightly adverted to the fact—that I had a failure of nerve earlier last week and withdrew my prayer to annul. I did so because I think the Treasury is requiring the department to take the introduction of this fundamental flagship policy right to the edge of proper implementation. The Minister told the House last week that the department has already been required to make significant savings. Some £2.4 billion was the anticipated spend, but that has now been reduced to £1.8 billion. The Minister may be able to persuade me otherwise on the rollout of the digital element of the service, and I would like to hear him on that subject but, if not, I am really worried that we are cutting this so thin that we may lose the core benefit of universal credit. I agree with the noble Baroness, Lady Sherlock: everybody in this House, or certainly anyone who served in the Welfare Reform Bill Committee in 2012, is committed to the principle of a single working-age benefit that is blind to work. But if the Treasury is not careful, the house of cards will collapse. So if I had succeeded in a fatal Motion and the Minister had been sent back to the Treasury with his tail between his legs, it may have said, "It's all too much—we're just going to let you swing in the wind".

I know that it is not the Minister's fault at all, but the idea that this is a save-to-spend initiative is a complete nonsense, as far as I am concerned, and I just do not believe it. It is a departmental expenditure limit that will carry these savings and, as the noble Baroness, Lady Lister, said, the claimants will carry the can, on top of everything else. We are talking about £200 million or £150 million—we do not know—but we really are in danger of putting people at risk.

Another thing that irks me is the fact that we are now beginning to confuse means-tested safety nets with income replacement benefits. Means-tested safety nets should apply in any circumstances; they are the point of last resort. I do not believe that the local government establishment, although it tries hard with reduced budgets, can pick up all of the downstream damage that will be done to low-income households that will struggle to stay alive. Therefore, we have to get behind the department to get the Treasury to recognise a bit more what is at stake here. That is one of the purposes that I hope the debate this evening will serve.

8.15 pm

I am very pleased to see the noble Lord, Lord Trefgarne, here, because I want to say to him that, despite the fact that, as has been mentioned, there are rising concerns about the procedures available to us in this House to deal with some of these policy issues, the work that his Secondary Legislation Scrutiny Committee does is exemplary. Even those of us who have been studying this issue for a long while require his help in getting information out of the department. He succeeds in doing that, and the professionals who work for his committee, and the membership of his committee, deserve great credit for doing that. It is boring work, but it is absolutely essential to give confidence to policy-makers on the floor in debates like this that they understand all the issues properly. That is true of Mr Paul Gray and the Social Security Advisory Committee, too; it has always done great work, and I pay both those organisations a great tribute.

I am struggling to understand whether we can get some key performance indicators into the operation of this policy. At the moment, the universal credit payment would normally be paid directly into a claimant's account within seven days of the last day of the monthly assessment period or as soon as is practically possible. After 3 August, there will be a seven-day waiting period. I am worried about,

"as soon as reasonably practicable thereafter",

which is a term of art. If these regulations go though, is there some way of monitoring the degree of lateness, if I can put it that way, and whether the six-week, or perhaps even more than six-week, period is observed in practice?

We had this debate about jobseeker's allowance and employment and support allowance a year ago, and we previewed all these issues. That was a saving of £15 million. It is presumably too early to get any useful feedback from the implementation of that policy, but I would very interested to learn whether, with the new agile computing systems we have, we could pinpoint whether the period that people will be faced with after 3 August is six weeks, six and a half weeks or seven weeks. Over the distance, the House is entitled to ask questions of that kind, as further and better particulars would influence our future consideration of this issue.

We know—the Minister confirms it and he is right—that test and learn is a part of the 2012 legislation framework. I hope that, if these regulations are implemented, we will try to test how we can mitigate some of the effects of these extra waiting days. They will be bound to increase the hardship experienced by people who are subject to the new universal credit regulations. I think the House will want to return to this in future. If the Minister is serious about trying to defend his policy and make it work sensibly, the generality of the people who are claiming will find universal credit much easier to use, but waiting days, particularly on top of digital by default, are going to mean that we could damage the proper, sensible rollout

[Lord Kirkwood of Kirkhope]
of this policy if we do not pay attention to the bottom 15% of the household distribution who will need help the most. If we do not get that right, the House will be failing households in this country who will suffer in future as a result of these changes.

Lord Farmer (Con): My Lords, while the noble Lord, Lord German, and the noble Baroness, Lady Sherlock, raise important points for consideration, I have to disagree with them both and speak against these Motions. In fact, I would go further and say that in the light of the £12 billion taken out of welfare in last week's Budget, I am surprised that they are asking the Government to find yet more savings in other places. This is the implication of these Motions.

The waiting days measure, which is consistent with the wider landscape of welfare in this country, is projected to save around £150 million per annum, although there may be some debate on that. Indeed it is a save-to-spend measure, and so removing the housing element and delaying implementation will sharply decrease the amount of funding available for a number of programmes to get people off benefits and into work. I think noble Lords would all agree that we need to make the best possible use of taxpayers' money and focus spend here. So I am concerned that, in particular, the proposed Motions will curtail the amount of help the Government can continue to give the long-term unemployed, such as quarterly work search interviews for all claimants and voluntary programmes available to lone parents with children aged three to four years old to help them become work ready.

I have been reading the Government's response to the Social Security Advisory Committee and note that the SSAC's recommendation to take housing benefit out of the waiting days regime would cut savings by around a half to two-thirds, costing £70 million to £100 million, as well as increasing the complexity of the universal credit payment from the point of view both of IT and the user. The onus is therefore on those tabling these Motions to say where they would cut the £70 million to £100 million to enable these important initiatives that started last year to continue.

Looking first at the concept of waiting days before entitlement to employment-related support, noble Lords will be aware that waiting days have been a long-standing feature of the benefit system and already exist in other working-age benefits, such as jobseeker's allowance and employment and support allowance. In addition, it must be recognised that many people who make a new claim for universal credit will have come from a previous job and will therefore have final earnings or other income to support themselves until their first benefit payment.

Again, taking this approach to universal credit is consistent with the wider benefit system, which is not designed to cover very short periods of unemployment or sickness. Waiting days are also more consistent with the world of work, where very short breaks between jobs are unpaid as no employer is receiving the benefit of any work. This Government's determination to ensure as far as possible that welfare mimics the world of work is the right approach.

It is my understanding that the safety net for vulnerable people is not being dismantled and that a number of groups are exempt from this change, including people who are terminally ill, victims of domestic abuse, care leavers, 16 to 17 year-olds without parental support, and prison leavers. Also, those who are in work and receiving universal credit who lose their job will not be subject to waiting days as they are already in the system.

I was pleased to read about a range of other targeted exemptions, which seem to be a better use of scarce public funds than treating all people as equally in need. I am, however, concerned about those who are long-term unemployed and have no savings or incoming final payment, and this is where it is vital that claimants receive timely and effective personal budgeting support as well as, if necessary, cash support in the form of a universal credit advance. Again, I would say that this Government are right to take a more finely grained approach and help those who particularly need support in the very short term, instead of assuming that everyone is in the same position.

I turn to the other elements of universal credit not tied to employment support, especially the housing benefit element that is the concern of the Motion of the noble Lord, Lord German. My understanding is that as universal credit is simplifying the welfare system, not least to make work pay, it would run counter to that goal to treat the housing element separately. I think that this was said earlier, but paying universal credit as a single monthly sum to households aims to help to prepare claimants for the world of work or to keep them in that mindset when they drop out of the labour market.

Quite rightly there is an expectation placed on households to manage their own budgets. Obviously housing costs do not cease when someone finds themselves having to move on to universal credit, but neither do they cease when someone is between jobs. However, I was relieved to find out that protections are in place for tenants who fall into arrears and alternative payment arrangements are available. In other words, it is not a sink-or-swim situation but we are encouraging the norm that very many of those who are in work try to live by, which is saving something for a rainy day.

In summary I support the Government's position on waiting days, on the grounds that when there is such a tight financial settlement it is imperative that the welfare system is simple but concentrated on those who need it most. However, I echo the Social Security Advisory Committee's plea, which we have just heard, that this change be subjected to the test-and-learn approach that was a hallmark of welfare reform under the coalition Government. It is essential that we can irrefutably say that the exemptions and other fine print of the waiting days measure are delivered as promised.

The Minister of State, Department for Work and Pensions (Lord Freud) (Con): Before considering the individual arguments, I think it would be useful to understand to whom exactly waiting days actually apply. It is not the most vulnerable: care leavers, the terminally ill, victims of domestic violence, youngsters without parental support and prison leavers have all been exempted. It is not those coming from other

benefits such as jobseeker's allowance or employment and support allowance. We have to remember that because universal credit is a benefit for low-income people in work as well as a safety net, many people in low-income and unstable employment will remain on universal credit as they move in and out of work. Hence, the very people for whom much of the concern has been expressed today will not be affected.

Noble Lords, and indeed the Social Security Advisory Committee's consultation, highlighted a series of examples of cases that might be affected. These included the effect on a single mother reducing her hours to care for her sick child; the effect on those who have not been able to build up a cushion for a rainy day because they have been in low-paid work, on zero-hour contracts or in in-work poverty; the reluctance of claimants to take short-term employment as they fear they may have to serve waiting days again when the job finishes; the concern of landlords that their tenants might not be able to pay their rent because they lose a week's housing and the disproportionate effect that that will have in London; and the fear that low-income people may borrow from payday lenders and loan sharks to keep afloat, a point made by the noble Lord—I find it hard not to call him my noble friend—Lord German.

I understand why these examples cause concern. They would cause me concern, too, if I was not confident that in such cases waiting days would not affect the most vulnerable. The single mother, the low paid, and zero-hours contract workers will most likely already be on universal credit while in work if their income is low. If on universal credit, they will not serve waiting days. Even if a person on a zero-hours or a short-term contract comes off universal credit, they will be exempted if they reclaim within six months. People moving from other legacy benefits are also exempted.

8.30 pm

The policy is focused on those who come to universal credit from relatively higher-income employment, who in general go back to work quickly. Around a third of people who come on to jobseeker's allowance end their claim within a month and around two-thirds do so within three months, in most cases because they have found a new job. By six months, over 80% have ended their claim for jobseeker's allowance. Without waiting days, some people may get a very small amount of universal credit, which they may not need, given that they have new work.

The Secondary Legislation Scrutiny Committee's third report of the Session—the merits committee, as the noble Baroness, Lady Thomas, continues to call it—picks up on the Social Security Advisory Committee's report and the Government's response, or several responses. In addition to the housing element, which I will pick up on in a moment, the committee asks about access to advances for claimants with new claims to universal credit. I assure the House that most claimants in financial need will be able to claim a universal credit advance. It is possible that there could be a very small number of new claims where insufficient universal credit is payable due to a sanction or fraud penalty—a point raised by the noble Baronesses, Lady Thomas and Lady Lister. However, claimants in these circumstances can apply for a recoverable hardship payment or can approach their local authority, which can provide assistance.

The committee, as well as the noble Baroness, Lady Thomas, also criticised the fact that no impact assessment was published alongside the Explanatory Memorandum and the equality analysis. As noble Lords will be aware, an impact assessment is not required where the legislation does not directly impose any regulatory, administrative or other obligations on any public or private bodies. Measures are in place to provide support through advances of benefit to those claimants who are in financial need.

The noble Lord, Lord German, gave a considered examination of the issues that relate to housing support during the period of waiting days. At present housing benefit is paid from the Monday after the claim, so housing benefit claimants already have to wait for up to a week for their award to begin. I think I can speak for the whole House when I say that we all agree that the old system of multiple and sometimes overlapping benefits was confusing and could have perverse incentives and disincentives. Because it is a unified benefit available in and out of work, universal credit removes disincentives to work and simplifies the system. To exclude the housing element from the waiting days would add administrative complexity, go against the policy of simplifying income-related benefits, and make the payments confusing to claimants. That point was made by the right reverend Prelate the Bishop of Portsmouth and my noble friend Lord Farmer.

The Social Security Advisory Committee and stakeholders expressed a great deal of concern about this. Again, however, we must recognise that the most vulnerable are protected either by exemptions or because they will already be claiming universal credit while in work. Thus, for them, there will no period of non-entitlement. For other people who do not have the resources to cushion themselves during what, for many, will be a short period before finding work, universal credit advances can be applied for.

I turn to the Motion in the name of the noble Baroness, Lady Sherlock, to delay the enactment of waiting days until after universal credit has been fully rolled out. There is no operational or policy reason for doing this. The systems are in place to implement waiting days in universal credit without any detriment to the more general rollout. Let us remind ourselves that the unified approach of universal credit as a benefit available to those both in and out of work means that people on the lowest incomes will not serve waiting days when their circumstances change. This is very different from legacy systems, where a change of circumstances can mean a new claim for benefit.

The noble Baroness, Lady Sherlock, poured a little bit of cold water on our rollout of universal credit, much to my disappointment. The current expectation is that we will have completed the full rollout of universal credit by 2019. Waiting until full rollout takes place will mean a long period where people on the older legacy benefits such as ESA and JSA are subject to waiting days, while those on universal credit are not. That would clearly create an imbalance in the system during the transitional period.

Lord Purvis of Tweed (LD): I have been listening to the debate very closely and I wonder whether the Minister can clarify something for the House. He will be aware that Clause 25 of the Scotland Bill concerns,

"persons to whom, and time when",

universal credit will be paid. It will be a concurrent power lying with the Secretary of State and Scottish Ministers. How can the noble Lord make with so firm a view the statements about the operational aspects all being in place, when they are not necessarily in place in Scotland? Agreement will still have to be reached with Scottish Ministers about how this will operate. The figures that the noble Lord is giving and the assumptions he is making cannot necessarily be correct when the passporting of one system to another within Scotland is not resolved. Therefore, would it not be better to delay these regulations until these aspects, which could affect many people in Scotland, are clarified between two potential Ministers?

Lord Freud: Universal credit is a fully reserved matter. There are some areas that we will discuss with the Scottish Government by agreement but they do not include a mainstream policy such as waiting days.

Lord Purvis of Tweed: I know that the noble Lord is aware that the Scotland Bill is going through another place, but is he aware that Clause 25, which is headed "Universal credit: persons to whom, and time when, paid", says:

"A function of making regulations to which this section applies so far as it is exercisable by the Secretary of State in or as regards Scotland, is exercisable by the Scottish Ministers concurrently with the Secretary of State"?

That is still the Government's position in the Government's Bill, is it not?

Lord Freud: I have expressed the exact agreement under the Smith commission and, as I understand it, as it appears in the Bill to which the noble Lord has referred.

I turn to the question about the savings raised by the noble Baronesses, Lady Sherlock and Lady Lister. In steady state the savings are currently estimated at £130 million to £140 million. In the current year—2015-16—the figure is £30 million. I think that we can congratulate the noble Baroness, Lady Sherlock, on finding the formula relating to the £5 million difference. The figure goes up pretty rapidly to the steady-state figure over the next three years, so it reaches it by 2017-18.

The expenditure with the savings is committed for 2015-16, and I cannot pre-empt the spending review in the autumn. We discussed the things that that would be spent on.

I am trying not to bore the House by telling it things that it might find unnecessary. I can assure the noble Baroness, Lady Lister, that telephone calls are available to arrange meetings. For the most vulnerable, we will explain the availability of universal credit advances either on the phone or face to face if not digitally.

The noble Lord, Lord Kirkwood, and the right reverend Prelate the Bishop of Portsmouth asked: how will we ensure that people are supported in their work search? We have more than 26,000 staff now trained to provide job coaching, so we are rolling that out in scale.

Let me just wind up. I appreciate that noble Lords genuinely support universal credit. That sentiment has been expressed widely, particularly by the noble Lord, Lord Kirkwood, and the noble Baroness, Lady Sherlock. I understand that. It is a slightly odd debate in that way, because noble Lords are trying to reinforce universal credit. I absolutely understand and appreciate that.

It is a savings measure. It releases £130 million to £140 million in steady state. The blunt reality is that, in the present environment, if we did not find money here, we would have to find it somewhere else. The noble Lord, Lord Kirkwood, has an instinct about how these things happen to which I am very sensitive.

Last week, the Chancellor of the Exchequer set out a vision of a higher-wage, lower-tax, lower-welfare society. As a first step towards this, he pledged to raise the personal allowance to £12,500 by the end of this Parliament, with an £11,000 down payment in the next tax year. Coupled with the living wage, which he announced, it gives people the chance to make decisions about their own money. It is still absolutely right, as noble Lords have said, that universal credit continues to operate as a real safety net for the most vulnerable and offers real support to those wanting to work and support themselves.

I commit to keeping a very close eye on this. I have been alerted to it tonight by noble Lords as something to watch. We are committed to a test and learn strategy. We will be rolling this out from August. I will come back to your Lordships as soon as I have a reasonable level of data to let you know whether that is happening and whether I am right in what I am telling you today: that this will not affect the people about whom noble Lords are so rightly concerned; but that I am right that it affects the people who are flowing through the system and we are just not paying them as much during that short period. I hope I am right on that, and I think that I am, but I will look at this very closely and come back to the House on its concerns about the vulnerable and tell noble Lords what is happening and what my level of confidence is on that when we have real evidence.

8.45 pm

The Chancellor was able to reduce taxes for the lowest earners and put us in a position where we can live within our means by reducing spending on welfare and tax credits by £12 billion, which is an enormous amount of money. I know that we will discuss some of that in the months to come. However, that means that we have to make real choices about how we effectively protect the most vulnerable. I have looked very long and hard at this and decided that, in this context, this change is appropriate and strikes the right balance. I will report back on whether that is the right judgment. I hope that the House will accept that.

Lord German: My Lords, first of all, I thank all Members who have spoken in the debate. I particularly thank the noble Lord, Lord Freud, for his contribution. Many people in your Lordships' House will recognise

that one thing he is very passionate about is the success of universal credit. We on these Benches also support universal credit and wish to see it happen.

The issue raised today is about the very short-term responses that government makes to people who have the worst problems and are in the worst condition. The key question that I wanted to see answered in this debate was how people will manage in that period when they are at their weakest and most vulnerable through illness and unemployment. I know that some people are exempt, but not all are, and considerably fewer people will be exempted than the Government expected. It is about those very short-term measures. This is not about the response to people who are unemployed over a longer term. This is about the period when they have either lost their job or become ill and require support in order to do two things: support their family and pay their rent. The fundamental issue behind the Motion is that, in that period, when choices are being made, people will choose to feed their family first and pay the electricity bill to keep the lights switched on. They will then not be able to pay their rent. That is the period for which the very harshest part of the regime has to be dealt with. It is the very simplest and smallest of measures that we are asking to be changed today in order to allow people to be able to manage at that most difficult time.

A number of noble Lords talked about universal credit in the longer term. Of course we are impatient on these Benches for its rollout to occur more quickly, but it has to be right. That is why it is the smallest of measures that we are asking to be changed today.

I say to my colleagues on the Labour Benches that there is nothing incompatible with removing the housing element from the waiting days and then having a review on postponing the measures for the introduction—both go hand in hand. This is the most difficult part of the whole waiting-days regime and housing benefit is the crucial part that people will avoid when they have to feed their families.

To those who have said that there is an alternative in the form of emergency payments—universal credit allowance payments—I must say that, last year, in answer to Parliamentary Questions, we were told that two-thirds of claimants who asked for emergency payments to help bridge that gap, in this very short period, were refused by Jobcentre Plus. Nearly 150,000 out of 221,824 applications were turned down. We know from the Trussell Trust and others that food banks are about short-term financial crisis. It is that short-term financial crisis which we should seek to avoid.

Lord Freud: It is worth clarifying that on universal credit advances, which are an advance for people who feel they need this financial support, I am aware of hardly any turndowns. It is a very different process. It is important not to conflate the two types of financial support.

Lord German: I say with the deepest respect to the Minister, who I know is an honourable man, that only a very small number of people—and they are not with families and children—have received universal credit. We have to take as an example the past year, where the same rules have applied about being able to afford to repay that advance on payment.

I come back to the fundamental point: how will those who are the most vulnerable manage? I am afraid that I have not yet been satisfied that we will do all we can, and I therefore believe it important to test the opinion of the House on this matter.

8.51 pm

Division on Lord German's Motion

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Lord German's Motion disagreed.

Division No. 5

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Universal Credit (Waiting Days) (Amendment) Regulations 2015

Motion

9.03 pm

Moved by ***Baroness Sherlock***

That this House calls on Her Majesty's Government, in the light of the Social Security Advisory Committee's Report of June 2015, to delay the enactment of the Universal Credit (Waiting Days) (Amendment) Regulations 2015 until Universal Credit is fully rolled out (SI 2015/1362).

Relevant document: 3rd Report from the Secondary Legislation Scrutiny Committee

Baroness Sherlock: My Lords, in the absence of suitable reassurances from the Minister, I wish to test the opinion of the House.

9.03 pm

Division on Baroness Sherlock's Motion

Contents 135; Not-Contents 124.

Baroness Sherlock's Motion agreed.

Division No. 6

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Anelay of St Johns, B.
Ashton of Hyde, L.
Attlee, E.
Balfe, L.
Bates, L.
Berridge, B.
Black of Brentwood, L.
Blencathra, L.
Bourne of Aberystwyth, L.
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Bridges of Headley, L.
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Taylor of Holbeach, L. [Teller]
Trefgarne, L.
True, L.
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Wasserman, L.
Wheatcroft, B.
Wilcox, B.
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Younger of Leckie, V.

9.14 pm

Baroness Sherlock: Before we move on to the next business, and in the light of that result, will the Minister make a statement on how the Government propose to handle this issue?

Lord Freud: My Lords, I will not make a statement but I repeat what I said—namely that I will come back to the House at the appropriate time. I think that I set a precedent last week in finding a way to keep noble Lords informed about what is happening. I will keep noble Lords informed about how this policy is going down.

Cities and Local Government Devolution Bill [HL]

Report (1st Day) (Continued)

9.15 pm

Clause 6: Other public authority functions

Amendment 28

Moved by ***Baroness Williams of Trafford***

28: Clause 6, page 7, line 40, at end insert—

"( ) An order under subsection (1) may include further provision about the exercise of the function including—

(a) provision for the function to be exercisable by the public authority or combined authority subject to conditions or limitations specified in the order;

(b) provision as to joint working arrangements between the combined authority and public authority in connection with the function (for example, provision for the function to be exercised by a joint committee)."

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, in moving Amendment 28, I wish to speak also to Amendments 29, 30, 71, 72, 80, 82 and 83. It may also assist the House if I comment on opposition Amendments 31, 32, 34 and 67.

These amendments are all about devolving functions. Underpinning the government amendments in this group is consideration we have given to issues raised in Committee about devolving health functions and devolution not only in cities but in counties where there may not be combined authorities, such as Cornwall.

Government Amendments 28, 29, 30, 80 and 82 relate to discussions we have had on devolving health matters and would provide greater flexibility over how functions can be exercised jointly by a public authority and combined authority. They are intended to provide assurance that any future devolution arrangements will continue to uphold existing accountabilities and national standards for the NHS. This was a core principle set out in the memorandum of understanding concerning health and social care functions agreed with Greater Manchester in February.

I have listened carefully to the points made by noble Lords, particularly the noble Lords, Lord Warner and Lord Hunt, both during Committee and Second Reading, and during the very useful meeting we had last week. I am bringing forward these amendments and providing further assurances today, which I hope will go at least some way to meeting the concerns that noble Lords have.

Clause 6 enables the Secretary of State by order to confer on a combined authority functions held by a public authority. Such functions could be exercisable

by the combined authority instead of the public authority, or the functions could be exercisable concurrently by each authority.

Amendment 28 enables the Secretary of State to provide for the functions concerned to be exercisable by the combined authority or public authority, subject to specified conditions or limitations. This would enable conditions to be attached to any conferral of powers from a public authority to a combined authority. This could, for example, enable a conferral of health powers on a combined authority to be accompanied by a condition that the combined authority must also meet the current statutory duties held variously by the Secretary of State for Health, NHS England and clinical commissioning groups, thereby ensuring continuation of current NHS accountabilities and standards. So, for example, the Secretary of State could transfer powers attaching the duty to seek continuous improvement in the quality of services, reduce health inequalities, promote the NHS constitution, seek to achieve the objectives in the NHS mandate or act consistently with those objectives. Other conditions might be attached that were specific to the two authorities' arrangements for working together.

Amendments 29 and 30 provide greater flexibility to ensure that combined authorities and public authorities can work effectively together. They enable Ministers to specify that functions are to be exercised by the public authority and combined authority working jointly, in addition to the powers to require that functions are exercised concurrently or are fully transferred to the combined authority. Amendments 80 and 82 are minor changes which support these amendments by enabling the Secretary of State to amend or modify legislation; for example, the National Health Service Act 2006 might need some amendments or modifications in relation to the particular combined authority to which functions were being transferred. These amendments allow greater flexibility for devolved arrangements to be specified according to local context and the function concerned, and would give greater assurance that the combined authority or council would have to work co-operatively in the exercise of functions.

I understand that Amendment 31 is also prompted by health considerations. It seeks to limit Clause 6 to exclude public authority functions,

"of a regulatory or supervisory nature",

from being conferred on a combined authority. I understand the intent behind this amendment, having discussed it with noble Lords last week and again now, and I agree that a combined authority should not be able to act as the regulator or supervisor of functions that it is responsible for exercising. Indeed, I can see a case for excluding from the scope of Clause 6 the functions of any national regulatory or supervisory body overseeing the exercise of functions by public authorities. Such an exclusion would put it beyond any doubt that the regulator responsibilities of, say, Monitor and the Care Quality Commission could not be devolved to combined authorities. Moreover, if a combined authority is provided, by order, health functions, perhaps to be exercised jointly with the local clinical commissioning groups, the combined authority should not also be conferred with the functions of the clinical commissioning groups' regulators.

As I have already indicated, I can assure noble Lords that we are absolutely committed to upholding existing accountabilities and national standards; for example, for the NHS. This core principle was set out in the health and social care memorandum of understanding with Greater Manchester. As I have said in earlier debates, the Government are committed to the view that health and social care services in any area, whatever devolution arrangements are entered into, must remain firmly part of the NHS and social care system; that all existing accountabilities and national standards for health, social care and public health services will still apply; and that the position of NHS services in the area in relation to the NHS constitution and mandate cannot change. The exclusions sought by Amendment 31 could be made by excluding them from the set of functions which are transferred and, if it were necessary, the Secretary of State's power to attach conditions or impose limitations could be used, as provided for in Amendment 28. However, I am prepared to consider further and reflect on today's discussion and, if we consider it appropriate, for the Government to return to these issues at Third Reading.

Government Amendments 71, 72 and 83 will enable the Secretary of State to confer functions of a public authority on local authorities as well as combined authorities. These amendments are ensuring that we have the powers we may need to devolve powers in county areas where there may not be a combined authority. In previous stages of the Bill, concerns have been raised that the Bill focuses on devolution to those large cities with combined authorities, and questions have been asked about how the Bill's provisions apply in non-metropolitan areas, where perhaps there may not be combined authorities.

As I have explained on more than one occasion, we are very clear that devolution applies equally across all parts of England—cities, counties and towns—and that we are looking to do bespoke deals with all areas that want them. We are also ready to have conversations with any area about the powers and budgets it wants devolved to it and the governance arrangements it proposes to support those powers. This amendment is to put it beyond doubt that there is a level playing field for all areas, including areas where there is no combined authority. That we are serious about this is unequivocally demonstrated by the Chancellor's announcement in the Budget:

"The government intends to support towns and counties to play their part in growing the economy, offering them the opportunity to agree devolution deals, and providing local people with the levers they need to boost growth. The government is working with towns and counties to make these deals happen and is making good progress towards a deal with Cornwall".

Clause 6 enables the Secretary of State to confer functions of a public authority on to a combined authority, subject to appropriate consent and process. Amendments 71 and 72 replicate these powers for application to local authorities to enable the Secretary of State to confer functions of a public authority on to a county or district council. Amendment 83 makes some minor amendments to tidy up Section 15 of the Localism Act accordingly. These amendments will enable, for example, devolution deals to be made with individual local authorities such as Cornwall, as I have mentioned, in the same way as for a combined authority.

Functions of a public authority could be conferred on a local authority to be exercised individually by the local authority, concurrently with the public authority or jointly with the public authority. All these powers can be transferred with limitations and conditions, as for the transfer of powers from a public authority to a combined authority. As with combined authorities, such a conferral of power can be made only with consent from the local authority and if the Secretary of State considers that doing so would be likely to improve the exercise of statutory functions in the local authority area. Such a conferral of power would also need approval from each House of Parliament and to support Parliament's consideration, the Secretary of State would lay a report before it setting out the reasoning for the proposed conferral of powers. I hope that noble Lords will agree that these amendments respond to their earlier questions about what the Government are offering to non-metropolitan areas.

Baroness Hollis of Heigham (Lab): We are getting major amendments, which are very welcome, at Report rather than in the Bill. It is very hard to find out what is going on because being on Report confines the sort of discussion which we would normally have in Committee. I am grateful for the Minister's tolerance. She made the point about county functions. Is she saying that under Amendment 71, in conjunction with Amendment 83, the functions of a public authority may be conferred on any single district authority, not just on combined authorities and counties? I was not sure.

Baroness Williams of Trafford: I was saying that it applies to any local authority.

Amendment 32 would require the Secretary of State to consult for 60 days before he could lay a draft order before Parliament which would confer powers of a public authority on a combined authority. I am clear that this amendment is unnecessary and risks adding significant delay to the implementation of devolution deals agreed between the Government and the areas concerned. That we cannot countenance delay is not primarily because we are seeking some bureaucratic neatness or even public administration—desirable as those aims are—but because implementing those deals is critical to enabling areas to address the serious economic challenges that the country faces, including the great challenge on productivity.

As the Chancellor made clear in his Budget, addressing this challenge is key to delivering the financial security that families seek when living standards rise. We cannot delay this. Noble Lords have heard me say a number of times that the Government are open to discussing devolution proposals from all places, and that our approach is for areas to come forward with proposals that address their specific issues and opportunities. These are deals between the Government and civic leaders who have been elected by, and are democratically accountable to, those living in the area.

Amendment 33, which is in my name and which we will be discussing shortly, requires the Secretary of State to lay before Parliament a report whenever he lays an order which supports such a transfer of power, to provide further detailed information about the deal and conferral of powers as proposed in the draft order. This report is designed to enhance the transparency of such deals and support parliamentary scrutiny.

9.30 pm

I am concerned that Amendment 32 would significantly delay the implementation of such a deal, perhaps by five to six months. As I have explained, I do not think it is an option to have bureaucratic and time-consuming processes slowing the actions needed to grow our economy, improve productivity and increase our competitiveness. Nothing would be gained by introducing the time-consuming processes associated with the requirement to make reports available to Parliament setting out the full details of a deal.

Amendment 34 would require the Secretary of State to publish a list of public authority functions which could be included in a devolution deal and subject to a transfer of functions under the Bill. Noble Lords have heard me say a number of times that we are open to discussing devolution proposals from all places. We have been clear that our approach is for areas to come forward with proposals that address the specific issues and opportunities for their area, and the Bill enables the implementation of such bespoke devolution deals. The nature of these changes will not be described in the Bill itself but set out individually in orders to implement changes in respect of each proposal approved and brought forward by the Secretary of State. These orders will be considered by both Houses of Parliament under the affirmative procedure.

Amendment 67 would place a duty on a combined authority which uses powers under the Bill to publish a plan relating to the provision of social welfare. This approach is also inconsistent with the Government's approach, which is to invite local areas to make proposals about the powers and functions they wish to be devolved and transferred. This would, in essence, require all combined authorities to publish such a plan, whether or not it would be effective and efficient for the combined authority to exercise this function. With these lengthy explanations, I hope noble Lords will agree not to press these amendments.

Lord Tyler (LD): My Lords, before I speak to government Amendments 71 and 72, I just want to congratulate the Minister on managing to get Cornwall into so many of her speeches. I have campaigned for some devolution for Cornwall since 1968, and it lifts my heart, even at this time of night, to hear the Government recognising that we have a special case with the integrity of Cornwall. Indeed, it is fair to comment that the boundary between England and Cornwall is a great deal more resilient than the one between England and Scotland or the one between England and Wales. Our identity is therefore that much clearer.

I think the Minister will be aware that the comments I made earlier about the Delegated Powers and Regulatory Reform Committee apply particularly to Amendments 71 and 72 too. These amendments are important. Although I understand her anxiety to short-cut and streamline matters, it should be put on record that their effect on the Bill would be to deal with very similar concerns to those we had in the committee about Clause 6. Members

of your Lordships' House may recall that the committee expressed the view that delegation was "inappropriate" in the light of an absence of any requirement on the Secretary of State to consult affected persons. That was in the committee's first report to the House, but here we are again: in a similar way, it is being argued that the transfer of public authority functions to a local authority could be so urgent that the Secretary of State could permit a complete absence of any effective consultation of those most affected.

The two new clauses proposed in these amendments are very important. I recognise that the Minister and the Government have tried to move as fast as they can to meet some of the concerns of the committee and of your Lordships' House, but I hope that she will be prepared to accept that once the committee's report is published tomorrow—I think it will refer to the proposed new clauses—the House should have an opportunity on Wednesday to look again at the Minister's proposals in the light of that report.

Lord Hunt of Kings Heath (Lab): My Lords, I refer to my Amendments 31 and 32, and thank the Minister very much for her response. Amendment 31 relates to the exclusion of the transfer of regulatory functions. I was very grateful for what the noble Baroness had to say, particularly that we will return to the issue at Third Reading. She referred to our debates about the NHS and naturally referred to NHS bodies, but the general principle arises with other functions as well. For example, I have been pondering Cumbria and the potential under this Bill for the regulators of civil nuclear plants and the Nuclear Decommissioning Authority to be transferred, under an order through Clause 6, to Cumbria County Council, which clearly would not be possible. Again, that would apply to the Environment Agency. I think the discussions the Minister is having with her officials between now and Third Reading need to go wider than just the National Health Service.

My Amendment 32 suggests that, because of the Henry VIII nature of Clause 6 orders, the super-affirmative procedure ought to be adopted. I know that in some circumstances, that procedure would not always be appropriate because of the length of time it takes. I am therefore very grateful for the noble Baroness's Amendment 33, which was originally grouped with these amendments, because it meets the substance of my concerns without making use of the super-affirmative procedure. I am very content with her amendment and look forward to further debate on my Amendment 31, on the exclusion of regulatory and supervisory functions from Clause 6 orders.

Baroness Williams of Trafford: May I just clarify a comment that I made to the noble Baroness, Lady Hollis? I talked about local authorities, but it does actually exclude London boroughs.

Lord Low of Dalston (CB): My Lords, I should like to speak to Amendment 67, which is not an opposition amendment but an amendment in my name. I apologise to noble Lords for entering the fray at such a late stage, but the fact is that I completely failed to appreciate the significance of this legislation for the provision of advice services in which I have a strong interest. That is entirely my failure, but I crave your Lordships' indulgence and hope that noble Lords will not mind too much if I take a few moments to draw their attention to the matter on Report.

My interest, which I have declared, stems from the fact that the amendment emanates from one of the key recommendations from the commission that I chaired on the future of advice and legal support on social welfare law—namely, that:

> "Local authorities or groups of local authorities should co-produce or commission local advice and legal support plans with local not for profit (NFP) and commercial advice agencies. These plans should review the services available, including helplines and websites, while targeting face-to-face provision so that it reaches the most vulnerable".

The fact that my amendment emanates from a commission of which I was myself the chair does not necessarily make it a bad amendment—indeed, one might think rather the reverse. In fact, there are a number of considerations which come together to suggest that this amendment makes a lot of sense in a Bill which is dealing with the devolution of power to larger, more strategic authorities. Advice services such as citizens advice bureaux, law centres and other charities provide crucial support to individuals in dealing with financial, legal and welfare problems concerning such things as housing, debt, disability benefits and claiming unpaid wages from employers, and they help communities to adjust to economic shocks and the effects of changes in government policies on things such as welfare reform. As non-statutory, or non-protected, services, they have suffered as a result of funding cuts, most social welfare issues having been removed from the scope of legal aid at the same time as cuts to a range of social support budgets.

The first report of my commission in January 2014 was entitled *Tackling the Advice Deficit*. Just over a year after that, in March this year, we published a second report which concluded that the advice deficit had increased significantly. In the first year since the implementation of LASPO, nine law centres had closed, comprising six of the Law Centres Network's membership, and the Law Centres Network estimated that local government support for law centres had reduced by almost a quarter since 2010-11.

Our commission's principal recommendation was that a strategic approach should be adopted towards the provision of advice. On 10 June this year, the noble Lord, Lord Faulks, for the Ministry of Justice in answer to Questions endorsed this approach when he said:

> "The Liberal Democrat manifesto contains a number of wise things, including the suggestion that we should, 'develop a strategy that will deliver advice and legal support to help people with everyday problems like personal debt and social welfare issues'. I entirely agree with that".—[*Official Report*, 10/6/15; col. 792.]

If we take Manchester, which is highly relevant in the present context, as an illustration of these points in microcosm, CAB funding of £1.3 million will be cut by more than one-third between 2015 and 2017, involving major restructuring, including the closure of South Manchester Law Centre and other CAB services, as well as reductions in some face-to-face services. That after £1.2 million had already been stripped out as a

result of the LASPO cuts, despite increasing numbers of families and individuals running into debt and legal problems.

As for the strategic response, a combined authority could collaborate with the local advice sector to plan services within a wider range of resources, including the welfare support grant, the universal credit local services framework, the homelessness prevention fund, the troubled families programme, lottery projects to support those with complex and multiple needs, the better care fund and other resources, such as support services for victims provided at local level by police and crime commissioners. This offers a viable model for the rehabilitation and stabilisation of our system of advice and legal support on social welfare law. Such collaboration has been facilitated since 2013 through partnership programmes supported by the lottery's advice services transition fund. This funding has now run out, although we hope that the Cabinet Office might still work with the Big Lottery Fund to extend this into a rolling programme that could be match-funded from a number of sources and built into a national advice and legal support fund to support the local plans which the recommendation in our report, which I referred to, calls for.

Co-ordination across funding streams and services would not only prevent duplication but help to sustain partnerships across the advice sector. The whole would be greater than the sum of the parts. This is aptly demonstrated by the example of Sheffield, which we studied in our report. The council brought together some 19 separate organisations under CAB leadership, which made for not only economies of scale but gains in efficiency—for example, through three in-house lawyers becoming available to the whole organisation.

Section 4(1) of the Care Act 2014 states that:

"A local authority must establish and maintain a service for providing people in its area with information and advice relating to care and support for adults and support for carers".

Combined authorities operating the sort of collaborative model that I have outlined offer a perfect vehicle for discharging this obligation. It seems a no-brainer. This is just the sort of thing that combined authorities are being set up to do—if not this, then what?

9.45 pm

I would have hoped that the Minister would consider this a valuable addition to the Bill or, if not in this precise form, that she would have been prepared to work with me to find the most appropriate way of incorporating the spirit of the amendment into the Bill. I could not really understand why she felt that it was inconsistent with the Government's policy. Perhaps, as a result of joining the discussion at this late stage, I have not properly understood the Government's policy, but if this is the case then maybe the Minister would be willing to meet me before Third Reading so that we could talk through whether there is not a way of meeting both the Government's objectives and mine in tabling this amendment.

Lord McKenzie of Luton (Lab): My Lords, as explained, Amendments 28 to 30 were basically driven by the health agenda. The facility for joint working arrangements, the transfer of functions subject to conditions or limitations, and providing for functions to be undertaken by the public authority on a continuing basis together with joint working seemed to us to be entirely reasonable. On the fundamental debate about the NHS we do not believe that this goes far enough, but that issue will be returned to on Wednesday.

Amendment 34, in my name and that of my noble friend Lord Beecham, is another attempt at clarity on the list of functions that the Government are prepared to consider as available for devolving under the provisions of the Act. We anticipated the answer that we got, and I will not prolong that at this time of night. I just ask: what is so wrong with some form of prospectus that would help local authorities to understand the criteria applied and the capacity that they may build? An annual report would help. I do not fully understand the Government's reticence on this matter. My noble friend Lord Hunt has dealt with Amendments 31 and 32, and we look forward to the further consideration on Amendment 31.

I say to the noble Lord, Lord Low, that we appreciate the amendment that has just been moved. There is a great need in this area; we know that the social welfare advice system has been all but decimated—advice around benefits, debts, employment and housing—and it is a very difficult time. The noble Lord should be congratulated on the work that he did and the commission that he chaired. He is right on the fundamental point that combined authorities should be a forum within which a strategic framework could be put together to deal with these very issues. I take the Minister's point that it is not the process of this Bill to prescribe that for each individual authority or the way that they should do it, but I hope that she will accept that it would be enabled by this process—indeed, it is quite an appropriate matter for a combined authority to address.

Amendments 71 and 72, as we have heard, would enable the transfer of public authority functions to certain individual local authorities. To reiterate a question asked by my noble friend, this would apply to any sort of authority—a district, county, unitary or single authority—and potentially the same type of powers that would be available more generally. It is an important change, which is welcomed, although we look forward to the DPRRC's report when it comes out tomorrow. The change is achieved by the Secretary of State making regulations if it is considered that the exercise of statutory functions will be improved. As we have heard, they have to have the consent of the relevant local authority.

We acknowledge that the affirmative procedure will operate, and the order will be accompanied by a more detailed report, which we will debate in a moment. However, the underlying process is unclear—perhaps we will get some clarity from the report tomorrow. It does not seem to require any starting assessment by the local authority and the proposal then being made to the Secretary of State; that seems to have disappeared from the process. In practice that may end up as an iterative process, but if there is no right for the individual local authorities to make proposals to the Secretary of State for consideration which merits some response, what assurance do we have that this is an inclusive

process? It starts from the other end of the process to the existing Section 109, so what creates an effective right for individual authorities with a case to be able to make that case and to be heard? I was anticipating an amendment from my noble friend Lady Hollis in this group but perhaps it will come in a subsequent one.

Baroness Hollis of Heigham: I apologise to my noble friend, but as my amendment was on the very different issue of council tax bands and I thought it was worth trying to explore that in greater detail, fairly late today I asked for it to be disaggregated. Therefore noble Lords will find that on the latest list of amendments Amendment 75A is at the very end, and it will be the last amendment to be debated on Wednesday. The noble Lord may have had an earlier set of groupings in which it was included; I pulled it out after the draft groupings had come out.

Lord McKenzie of Luton: I am grateful to my noble friend for that clarification. I will just say to the Government that where my noble friend leads, Governments eventually catch up.

Lord Shipley (LD): My Lords, I do not wish to repeat anything that has been said on Amendments 31 and 32, because I am very happy with the debate we have had so far. I will draw the Minister's attention to the very helpful words of the noble Lord, Lord Low, on Amendment 67, and will then take that and compare it to Amendment 34 and the list of public functions, which the Labour Party has identified as needed, and which I support. It starts to matter. We had a brief discussion in Committee around careers services and their role as regards the devolution of skills budgeting—what the exact responsibility of combined authorities would be as regards careers services. All that matters because it is not clear to all the organisations outside your Lordships' House exactly what is in scope. Therefore the production of that list called for by Amendment 34 seems very important, because the points made by the noble Lord, Lord Low, were extremely important and appropriate.

Baroness Hollis of Heigham: My Lords, I support my noble friend and the noble Lord, Lord Shipley, and agree with their comments. Although I am delighted by the flexibility and the responsiveness of the Minister, I am now unclear as to why an individual local authority should necessarily join other authorities to form a combined area if it could equally well receive powers. Obviously that would be a matter for negotiation. For example, it would be absurd to confine transport to one area, but for another power associated with economic development you might not necessarily need a combined authority to do so; you just need additional powers to be able to do X, Y or Z.

Therefore, given that at the lowest level we now have single local authorities, then combined authorities and, floating somewhere above them, metro authorities with metro mayors, which will be required, it would be very helpful if the Minister could give us some indication—not necessarily tonight, but as soon as possible—of what the Secretary of State might have in mind to be appropriately delegated to different tiers of authority, particularly for those of us who are in two-tier shire authorities. In that way, a lot of wasted effort will not be put into submissions that will go nowhere. We understand unitary authorities in metropolitan areas very clearly, but where there are district councils and county councils, and the district councils are often rural and urban and have different political views and attitudes towards economic growth, it will be quite complicated to find a way through to maximise our common agenda of economic growth for the prosperity of us all. Therefore anything the Minister can do to help clarify the routes we travel on this will be very welcome.

Lord Heseltine (Con): My Lords, the more I have listened to the debate on Amendment 34, the more worried I have become about many of the interventions from the Benches opposite. Devolution is not something that government departments are longing to do. They are not sitting there asking, "How can we give up power? How can we transfer this back from where we have taken it?". There is controversy between departments within government. It is a personal controversy and a power structure controversy. If we were to agree to this line of thinking, we would force the Government to find minimalist compromises within the existing structure. Why should the Government go further within the controversy? Why not simply give the least? That would broadly satisfy the consensus within the power structure of Whitehall.

The argument that I have used in my personal capacity with local authorities is: be adventurous. I have asked: do you have the capacity to see how to do something bigger, better and more imaginative than you will ever get if it is imposed on you from central government? Some authorities have that capacity. Manchester has been quoted many times but there are other examples—the noble Lord, Lord Low, in an interesting intervention talked about what has happened in Sheffield. However, in order to galvanise the momentum of local talent based on local strengths, you need men and women who can envisage how to do things better than will ever be achieved by what is imposed on them by the central machine. That is why Amendment 34 is at the heart of the worst way of dealing with things.

We want local people to rise up in indignation with their ideas, to argue for them and to put forward proposals which in many parts of government will not be acceptable so that a debate is forced on government. Then, those who believe in the devolution argument will, in the normal processes of government, have the chance to win the concessions that can meet the aspirations that are put forward. However, clamping down with prescriptive lists divided into tiers of local government and into functions, mirroring the Whitehall structure, is the way to stop devolution in its tracks.

Baroness Williams of Trafford: My Lords, I thank my noble friend Lord Heseltine for setting the context for some of my answers tonight. We do not intend to make lists to prescribe anything. We want to hear proposals from local authorities—single local authorities or whatever they might be. As my noble friend said, we want to hear about their vision for the future of their areas. I hope that that answers some of the questions that were raised.

The noble Lord, Lord Tyler, referred to Amendments 71 and 72. As with the other amendments which the Delegated Powers Committee considered today, these can be discussed further on Wednesday, when the committee's report will be available.

I was asked whether single local authorities could make proposals to the Secretary of State. The answer is yes.

The noble Lord, Lord Low, asked about social welfare reports. Whatever the merits of these issues—and I can see their importance—again, these are matters for local areas, and indeed perhaps for combined authorities, to respond to if that is considered right locally. They are not matters for a generally enabling Bill providing the framework for devolving powers as part of a bespoke deal.

The noble Lord, Lord McKenzie, asked why there should not be a prospectus for local authorities to respond to. Again, a prospectus tempts us to shift from our bottom-up approach to devolution to an approach driven by the Government's ideas about what may or may not be devolved. That goes back to the comments of my noble friend Lord Heseltine. We are totally wedded to the bottom-up approach of having conversations with those in any area for whatever they propose for devolution.

10 pm

The noble Lord, Lord McKenzie, also wanted me to confirm whether that applied to any single authority. The answer, again, is yes, and that includes unitaries, districts and counties but not London boroughs.

The noble Baroness, Lady Hollis, asked: if local authorities can have devolved powers, why do they need to have combined authorities? Local authorities may wish to work collaboratively across their administrative boundaries and across wider functional economic areas in order to promote economic growth. There will be some areas—I mention Cornwall again—where a single functional economic area will involve a single local authority.

The noble Lord, Lord Shipley, asked exactly what will be a combined authority's responsibilities for any skills service. When a combined authority's responsibilities may relate to the skills service, it will depend on the particular deal in question. The responsibilities will be what that area agrees in its deal. For the Government now to specify what the responsibilities will be would defeat the object of this enabling devolution approach, as explained so well by my noble friend Lord Heseltine.

Amendment 28 agreed.

Amendments 29 and 30

Moved by ***Baroness Williams of Trafford***

29: Clause 6, page 7, line 41, leave out "An order under subsection (1)(a) may make" and insert "The provision that may be included in an order under subsection (1)(a) includes, in particular,"

30: Clause 6, page 7, line 45, at end insert—

"(c) for the function to be exercisable by the combined authority and the public authority jointly, or

"(d) for the function to be exercisable by the combined authority jointly with the public authority but also continue to be exercisable by the public authority alone."

Amendments 29 and 30 agreed.

Amendments 31 and 32 not moved.

Amendment 33

Moved by ***Baroness Williams of Trafford***

33: Clause 6, page 8, line 26, at end insert—

"( ) At the same time as laying a draft of a statutory instrument containing an order under this section before Parliament, the Secretary of State must lay before Parliament a report explaining the effect of the order and why the Secretary of State considers it appropriate to make the order.

"( ) The report must include—

(a) a description of any consultation taken into account by the Secretary of State,

(b) information about any representations considered by the Secretary of State in connection with the order, and

(c) any other evidence or contextual information that the Secretary of State considers it appropriate to include."

Baroness Williams of Trafford: I will speak also to Amendment 70. During Committee, noble Lords expressed concern that Parliament should be fully informed on the nature of devolution deals and proposals. We have considered carefully the points raised, and we agree that we could strengthen and extend the information available to Parliament. Amendments 33 and 70 are intended to do this. They provide that when a Secretary of State lays a draft order in Parliament, in addition to the order's Explanatory Memorandum, he will also lay a report explaining what the order does and why he proposes to make it. The report would need to include details of any consultation.

In Committee, we considered several amendments from noble Lords about consultation. Among those were requirements for the Secretary of State to undertake consultation before putting orders before Parliament. We consider that where consultation is undertaken, it is most appropriate that this is at local level by the areas developing the proposals, but it may be appropriate for the Secretary of State to consider such consultation as has been undertaken, and it is right that Parliament should know about such consideration, so my amendments require that the reports to be laid in Parliament contain a description of any consultation and any representations considered by the Secretary of State—and any other relevant evidence or information considered appropriate to include.

For example, in respect of consideration of policing within any deal, the Government would fully expect police and crime commissioners to be part of discussions early on in the development of those proposals at local level. Where the transferring of PCC functions to a mayor is proposed, the report would therefore include descriptions of the discussions that have taken place on this matter between local PCCs, the combined authority and the Government.

I believe that these reports, together with the Explanatory Memoranda, will ensure that Parliament will have all that it needs to consider the orders implementing devolution deals and the governance changes put before it. I beg to move.

Lord Woolmer of Leeds (Lab): My Lords, I am grateful to the Minister for her explanation but want to say a couple of things. First, I assume that these amendments will relate to each and every agreement that will be brought forward in due course in the House. Secondly, I was reassured that the document setting out the various details would be additional to the Explanatory Memorandum, which is notoriously modest in its explanations. It would be extremely helpful to me and to the Secondary Legislation Scrutiny Committee to have the reassurance that those reports will be thorough.

I hope that the Government are able to have all success in their ventures. As the debate has gone on over the weeks, I have become more convinced than I was early on that this could well lead to some genuine devolution initiatives. Noble Lords may think that I was rather cynical at the start, but the drive and intention behind it, not least from the noble Lord, Lord Heseltine, and the Minister, is greatly reassuring.

I hope that these reports will be full and genuinely helpful to the House, because those will be the reports that will persuade both Houses that the devolution proposals are substantial and well founded. Of course only experience will show that as the reality, but nevertheless the parliamentary process is important because that is what will carry opinion with the Government and in the local communities.

Lord McKenzie of Luton: My Lords, Amendment 33 is to be welcomed as it requires a report, as we have heard, to be laid before Parliament at the same time as the statutory instrument containing an order under Clause 6. The report will cover descriptions of any consultations and representations received and evidential and background information. Amendment 70 requires a similar report in respect of regulations arising under Clause 10. We consider these to be important amendments, which we support.

However, the amendment raises one question, which I touched upon earlier in relation to Amendment 1. The devolution process under way is happening not just necessarily under an order in Clause 6 or 10. It has been an evolving process, particularly in the case of Greater Manchester. The build-up of that devolution arrangement happened under different provisions, and that could be replicated in other deals.

We are trying to understand whether this will culminate always in one order under Clause 6 or Clause 10, or whether there are bits along the way. If the latter, that would obviously have an impact on the type of information and the type of report, and on whether there are any gaps in it. How will it work in practice?

As I said earlier, the reports could be an important component of an annual report, but I would be interested in how it all works and how it culminates always in one order which then triggers the report that we are discussing.

Baroness Williams of Trafford: I thank the noble Lord, Lord Woolmer, for the two points that he raised and for his increasing confidence as the Bill goes along—it is reassuring to me if not to anyone else. He asked whether each and every deal would be brought forward in this way. The answer is yes. He also asked whether the reports would be in addition to the Explanatory Memorandum. Not only will they be in addition, but they will be full and detailed.

The noble Lord, Lord McKenzie, asked whether the report plus the Explanatory Memorandum would be part of the full deal explanation, or whether it would be done piecemeal. My view at this moment—and I will correct it if it is wrong—is that once an area is ready to go forward with a devolution deal and therefore the orders that come with it, there will be a substantial report plus Explanatory Memoranda. It may be that that is added to through a future order, but that order on its own would then come through both Houses of Parliament. That is how I see it working, and I will correct it if it is not the case.

Amendment 33 agreed.

Amendment 34 not moved.

Consideration on Report adjourned.

House adjourned at 10.10 pm.

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