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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

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The first time a Member speaks to a new piece of parliamentary business, the following abbreviations are used to show their party affiliation:

Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
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
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

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House of Lords

Thursday, 10 December 2015.

11 am

Prayers—read by the Lord Bishop of Bristol.

Introduction: Baroness Jowell

11.08 am

The right honourable Dame Tessa Jane Helen Douglas Jowell, DBE, having been created Baroness Jowell, of Brixton in the London Borough of Lambeth, was introduced and took the oath, supported by Lord Falconer of Thoroton and Baroness Lawrence of Clarendon, and signed an undertaking to abide by the Code of Conduct.

Introduction: Lord Darling of Roulanish

11.13 am

The right honourable Alistair Maclean Darling, having been created Baron Darling of Roulanish, of Great Bernera in Ross and Cromarty, was introduced and made the solemn affirmation, supported by Lord Bradley and Baroness Armstrong of Hill Top, and signed an undertaking to abide by the Code of Conduct.

Higher Education: Overseas Students

Question

11.18 am

Asked by **Lord Clement-Jones**

To ask Her Majesty's Government what recent assessment they have made of the impact on higher education institutions of their policy on visas for overseas students, particularly in respect of the visa refusal thresholds set for them.

The Minister of State, Home Office (Lord Bates) (Con): My Lords, we have an excellent offer for international students who wish to study at our world-leading institutions and there remains no limit on the number who can do so. The visa refusal threshold incentivises institutions to conduct checks to ensure that they are offering places to genuine students.

Lord Clement-Jones (LD): My Lords, the new and very subjective credibility test, combined with the lowering to 10% of the refusal threshold, has caused huge difficulties for universities—I hope the Minister is aware of that—and has led to it becoming virtually impossible for them to offer places to students from Nigeria and Pakistan, to name but two countries. Is the Home Office aware of these difficulties caused to universities? It appears like racial discrimination to many of these students. Can he confirm that there is absolutely no intention of lowering the threshold to 5%?

Lord Bates: We changed the threshold from 20% down to 10% because it mirrors the national scheme, whereby we grant 90% of visas and 10% are

refused. Most universities have way below 10%. They have 1%, 2%, 3%—under 5%—and therefore when somebody triggers that threshold of 10% we think it is right to ask some questions about the rigour and robustness of their application procedures. The reality is that for most universities we see increasing numbers of students—up 31% for the Russell group, up 17% for all universities—so that seems to suggest that it is not quite the issue that the noble Lord has presented.

Lord Howell of Guildford (Con): Would my noble friend agree that as most Commonwealth countries let our students in free, it might be time to reintroduce for students the Commonwealth youth visa, the post-study work visa and flexible, reciprocal arrangements with Australia, New Zealand and Canada, which these countries would clearly welcome?

Lord Bates: The noble Lord makes an interesting suggestion about our relations with the Commonwealth. Of course, Australia and Canada also have an attractive offer to international students and, therefore, it would be good to look at forming greater relationships between us. However, the bottom line is that there is no limit on genuine students studying at genuine universities in the UK, nor will there ever be one.

Lord Hylton (CB): My Lords, is the Minister aware of the difficulties faced by Palestinian students, who first have to go to Jordan to get their visas, which involves passing through many Israeli checkpoints on the way, before paying a large fee? Do the Government already have discretion to waive fees for poor students, particularly for those coming for short visits to take part in a conference or a performance in this country, for example?

Lord Bates: Any plans to change the system on the fees depends on the relationship with the university in the UK. Presumably a relationship can be negotiated on the financial assistance which might be given to such students. Of course it would be entirely open to the universities to make such offers as they wish. However, it is an important part of the verification process to introduce television or visual interviews with students, because that has made a significant improvement in the quality and calibre of the students coming to our institutions.

Baroness Rebuck (Lab): Although the Government rightly want to grow our economy by welcoming students from outside the EU, that pipeline is dwindling. Why? I am afraid that it is because the Home Office sends them back as soon as they graduate. Would the Minister consider the Australian model and ring-fence visas for those graduating with specialist skills; and—I declare an interest here—consider reintroducing automatic visas for postgraduates whose skills we need for our growing economy?

Lord Bates: In terms of numbers, the UK remains the second most attractive country in the world for students to come to. After they have studied, if they apply for a graduate-level skilled job—which certainly someone graduating in the sciences would be able to do—they would be welcome to transfer from the tier 4 visa to the tier 2 visa; if they want to stay on for an

[LORD BATES]

internship they can apply for a tier 5 visa; and if they want to set up a business they can stay on under the tier 1 visa. There are lots of opportunities for the brightest and best people to stay on, and we want that to continue.

Viscount Hanworth (Lab): Some institutions surely take in rather few overseas students. Has it not occurred to the Government that a percentage threshold of visa refusals is entirely inappropriate in such cases? Might they not think of an alternative threshold in such cases?

Lord Bates: The threshold is there to trigger whether there is a potential abuse of the system. When we came into power in 2010 we inherited the old points-based system. This was poorly run and not robust and we wanted to strengthen it with tests. That is why we closed down 900 bogus colleges. At the same time as the clamp-down on the bogus aspects of it, we have seen an increase in the quality of students who are choosing to make their investment in education in the UK. That shows that the system is working.

Lord Rosser (Lab): Reference has been made to the 125,000 credibility interviews a year carried out by the Home Office through UKVI in respect of overseas students offered places at accredited HE institutions with a refusal rate of over 10%. There is no right of appeal to an independent adjudicator nor any consultation with the HE institution concerned, yet a refusal rate of greater than 10% of places offered impacts on the future ability of the higher education institution concerned to recruit, since its allocation of places will be cut. In view of the concerns expressed, will the Minister offer to at least meet a delegation of vice-chancellors from the accredited HE institutions most affected, since I understand that they would much appreciate such a meeting to discuss the issues more fully with the Home Office Minister?

Lord Bates: As far as I am aware, possibly one or two of our major universities have had a problem with that threshold. Most do not come anywhere near it. There is an opportunity for someone who is turned down to appeal and have the decision looked at again by an independent manager. I have had a number of meetings with the noble Lord's colleagues on this issue and am open to more. James Brokenshire continues to meet regularly with the Russell group and Universities UK to discuss their concerns because this is such an important part of our export offering and our cultural soft power.

Lord Hamilton of Epsom (Con): My Lords, net migration into this country was 336,000 last year. What percentage was students who, having completed their courses, went into the employment market?

Lord Bates: That is precisely one of the points that we want to get to from better information. The ONS, which is the independent provider, provides an estimate of the net number of people who came to study in the UK and did not leave. That estimate is 93,000. However, we do not know what proportion of that 93,000 has

transferred from tier 4 to tier 2 or to another legitimate means of remaining. Because we now have exit checks we should be able to get that information, which we shall be able to use to provide some comfort in the future.

Channel 4

Question

11.27 am

Asked by **Baroness Grender**

To ask Her Majesty's Government, further to the remarks made by the Prime Minister on 4 November (HC Deb, col 965), what information they are using to estimate the financial gains from privatising Channel 4.

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills and Department for Culture, Media and Sport (Baroness Neville-Rolfe) (Con): My Lords, the Prime Minister has said that he wants Channel 4 to have a strong and secure future. No decisions have been made about the channel's prospects. The Government are looking at a range of information to assess a broad spread of options including those proposed by Channel 4's own leadership.

Baroness Grender (LD): Is the Minister aware that while the Prime Minister says that private investment will safeguard Channel 4, leaders in the advertising industry and *Campaign* magazine say the exact opposite? How is it possible that a great Thatcherite success that supports more than 350 independent production companies annually is now under threat of what looks like the equivalent of a one-off car-boot sale?

Baroness Neville-Rolfe: Channel 4 is not under threat. It has an important remit. It must deliver innovative, experimental and distinctive content that appeals to a diverse society. Looking at all the options we shall obviously have full regard to that remit and indeed to the creative industries that depend on it.

Lord Stevenson of Balmacara (Lab): Channel 4 was established by Act of Parliament by a Conservative Government. Does the Minister agree that it is highly unlikely that any commercial purchaser could be found for Channel 4 unless the Government change its remit which at present ensures that all profits are reinvested in programmes? Will she confirm that it would require primary legislation to amend the current remit?

Baroness Neville-Rolfe: My Lords, we are still at a fairly early stage of the process on Channel 4. The issue of whether legislation would be required for any change that we decide to make will certainly be one of the considerations.

Lord Holmes of Richmond (Con): My Lords, does my noble friend agree that Channel 4's coverage of the 2012 Paralympic Games clearly demonstrated the benefit of its public service remit and non-profit ownership model and the old adage, "if it ain't broke, don't fix it"?

Baroness Neville-Rolfe: I share the view of my noble friend about the excellence of Channel 4's coverage of the Paralympics. Indeed, I am a big fan of "Channel 4 Racing".

Noble Lords: Hear, hear.

Baroness Neville-Rolfe: What we are doing is looking at the options in an objective way, engaging with Channel 4, and in the fullness of time—in due course, as they say—we will reach conclusions.

Lord Gordon of Strathblane (Lab): Even if one takes the Minister's reply at face value and is reassured by it, she surely must recognise that if Channel 4 were to be privatised, that capital would have to be serviced, either by dividends paid to investors or interest paid to those who provided loans. That would represent money that would otherwise have gone to creative programming—surely an undesirable outcome.

Baroness Neville-Rolfe: I can understand the noble Lord's comments but we have to look objectively at all the options in the light of the changing media market and the needs of Channel 4 and its viewers.

Lord Best (CB): My Lords, I declare an interest as chair of your Lordships' Select Committee on Communications. The committee has heard from Channel 4 about its highly acclaimed news coverage. Bearing in mind that news programmes are not profitable because their production costs are relatively high and you cannot export or resell them, does the Minister not agree that the privatisation of Channel 4 would mean a major reduction in this distinctive and impressive news service?

Baroness Neville-Rolfe: I repeat the point that we are looking at options. I agree that "Channel 4 News" and news provision are an important part of decisions on public sector broadcasting. I think in Parliament we feel that even more strongly than elsewhere in the country.

Lord Wigley (PC): My Lords, with regard to the fourth channel in Wales, S4C, can the Minister give an assurance that whatever consideration the Government are giving to the future of Channel 4 in England, there is no danger to the independence of S4C in Wales, and that it will be given adequate finance to ensure that it is not subject to death by a thousand cuts?

Baroness Neville-Rolfe: We have made clear our commitment to funding in Wales. S4C continues to have, as I think the noble Lord will be pleased to hear, a dual funding model and currently receives around £75 million a year from the licence fee.

Baroness Bonham-Carter of Yarnbury (LD): My Lords—

Lord Hamilton of Epsom (Con): My Lords—

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): My Lords, on this occasion I think the House would like to hear from the noble Baroness, Lady Bonham-Carter.

Baroness Bonham-Carter of Yarnbury: My Lords, the Prime Minister has made it clear that privatisation is under consideration. Will the Minister share with the Chamber what part of this great British and, can I say, Conservative success—an essential part of our creative industries, as the Minister mentioned, and the fastest-growing sector of our economy—is not working?

Baroness Neville-Rolfe: My Lords, we are looking at Channel 4 objectively to see whether it is meeting its remit properly and whether there are changes that need to be made to the remit or its distribution. Of course, as the Prime Minister said, we need to ensure that the great channel goes on being great for many years to come. It is perfectly okay to review things.

Lord Hamilton of Epsom: My Lords, is it not possible that if Channel 4 was privatised, it might be run more efficiently and have even more money to spend on quality programmes?

Baroness Neville-Rolfe: My noble friend is entirely right that looking at how things can be run efficiently—taking advantage of technological advances, for example—is a key point in the kinds of reviews that we do in the media sector.

Economy: Balance of Payments and Industrial Productivity

Question

11.34 am

Asked by Lord Harrison

To ask Her Majesty's Government what steps they will take to improve the United Kingdom's current balance of payments and industrial productivity levels.

The Commercial Secretary to the Treasury (Lord O'Neill of Gatley) (Con): My Lords, this Government are committed to boosting productivity and enabling our trade performance. Our productivity plan, *Fixing the Foundations*, is designed to ensure that we remain a dynamic, open and enterprising economy. It includes steps to improve our export support, which we built on at the spending review. This action, together with our commitment to eliminate the budget deficit, reduces the potential risks to our economic security associated with our external position.

Lord Harrison (Lab): My Lords, the trade deficit of the United Kingdom is as big as the Bay of Biscay. Manufacturing is once again in decline because of the failure to invest such that it is blocking the march of the makers, as proposed by the Chancellor. British productivity is failing to produce because of underinvestment in people and parts. Is not John Longworth of the British Chambers of Commerce right to criticise the Chancellor's unbalanced economy? Would it not be helpful in our negotiations with the European Union, when highlighting competitiveness, if competitiveness started at home?

Lord O'Neill of Gatley: My Lords, in answering some of these questions, I have to resist the temptation to be a bit of an economics data nerd. First, as I think I pointed out in this House recently, our trade performance has stabilised in recent years. The biggest contribution to the deterioration in our current account balance comes from the so-called invisibles balance, particularly lower returns on our investments overseas.

Lord Flight (Con): My Lords, it is appropriate that the noble Lord, Lord Harrison, should raise the issue of the current account deficit. Many people seem to have forgotten about it. Over the past 15 years it has amounted to some £700 billion and it has been financed by selling the family silver. Even some 50% of buildings in the City of London are now foreign-owned. Would the Minister agree that the issue is essentially macroeconomic? What is needed is a higher savings rate and a higher investment rate. Both have been too low for a long time.

Lord O'Neill of Gatley: My Lords, my noble friend is technically correct that the balance of payments current account reflects the difference between our national savings and our national investment performance—one is the reverse side of the other. The best way to improve it is by reducing our domestic savings rate but remaining as attractive as we are to overseas investments.

Lord Fox (LD): My Lords, I draw attention to my interest in the register of Members' interests. I am sure that the Minister has seen the verdicts of the EEF—the manufacturers' association—on the current downbeat mood in manufacturing and of the respected OBR, which says that the apprentice levy is a workplace tax. Does he agree with those verdicts and can he explain how they will help with fixing the foundations and uplifting the mood of manufacturers?

Lord O'Neill of Gatley: My Lords, there were at least three questions there but I shall try to be brief. I speak frequently to the EEF and its survey unfortunately reflects similar and growing evidence from surveys all over the world of weakness in manufacturing. The UK's most regular monthly survey of the degree of optimism, or otherwise, in business shows that it remains one of the strongest in the G7 countries.

Lord Davies of Oldham (Lab): My Lords, as the Minister has indicated that he is prepared to comment on statistics, I shall ask two straightforward questions. Is it the case that manufacturing output is now down the levels of 2009—just after the financial crash? The march of the makers is therefore becoming the slow movement of the disappointed. Is it not also the case that, with productivity set to fall over the next two years, the gap between the UK and the G7 countries is now down to 1991 levels? If these figures are correct, what on earth have been the so-called successes of the long-term economic plan?

Lord O'Neill of Gatley: My Lords, again there are many questions about the arcane world of economic statistics with which I am very familiar. I suggest that there is no clear correlation between the level of

manufacturing and the overall level of productivity. I spent considerable time yesterday discussing this with my many friends in the north of England.

Lord Spicer (Con): My Lords, there are signs that we may be on the brink of a recession. Is this really the right time to think of putting up interest rates?

Lord O'Neill of Gatley: My Lords, luckily the decision on what happens to interest rates has absolutely nothing to do with me and is the responsibility of the independent Bank of England.

Viscount Hanworth (Lab): My Lords, one of the factors that inhibits our exports is our overvalued rate of exchange. Should the Government not consider establishing a sovereign wealth fund to purchase foreign assets whenever the sterling rate of exchange exceeds a certain threshold value? This, after all, would compensate for our selling our family silver abroad.

Lord O'Neill of Gatley: My Lords, by and large as a result of the Bank of England's responsibility for monetary policy, in effect the responsibility for what happens to the exchange rate in a very competitive world is hugely influenced by our monetary policy relative to others. We have been and remain in favour of open markets, where prices are determined in world markets.

Lord Howell of Guildford (Con): Will my noble friend explain to most of the noble Lords who have spoken that nowadays, most manufacturing items have a huge service and knowledge-laden complex in them? Will he also explain that to the Office for National Statistics, which does not seem to understand the difference? Will he not concede that at the moment, as an economy, we have an £86 billion trade surplus on our services overseas, which indicates that the mixture of services and manufacturing that we are developing is the winning formula for the future?

Lord O'Neill of Gatley: My Lords, my noble friend Lord Howell points out some extremely important facts, which I encourage everybody to listen to and read more about. I would add, as I emphasised at the start, that there are some signs that our trade balance in goods and services in recent years has improved. The deterioration that so many people talk about is in another source; it relates to the difference between the returns of investors here in the UK and our return on our own investments overseas.

British Bill of Rights *Question*

11.41 am

Asked by Lord Marks of Henley-on-Thames

To ask Her Majesty's Government, in the light of the reported delays in bringing forward a British Bill of Rights, whether they will rule out introducing legislation that will purport to relieve the United Kingdom from its obligation to comply with final decisions of the European Court of Human Rights.

The Minister of State, Ministry of Justice (Lord Faulks) (Con): My Lords, we will set out our proposals in due course. While we want to remain part of the ECHR, we will not stay at any cost. If we cannot achieve a satisfactory settlement within the convention, we may have no option but to consider withdrawal. However, we are confident that we can make progress from within the ECHR.

Lord Marks of Henley-on-Thames (LD): My Lords, the convention obligation to comply with final decisions of the Strasbourg court protects us all against breaches by Governments, in other Council of Europe countries and our own. In the light of the Russian Constitutional Court's decision that Russian domestic laws should trump Strasbourg decisions, do the Government not accept that if we took a similar line—let alone threatened to leave—it would encourage other Governments to do the same? Will the Government commit on this Human Rights Day that they still accept that the binding obligation to comply with final decisions of the Strasbourg court is the bedrock on which the convention is built?

Lord Faulks: My Lords, the legislation passed by the Russian Duma does not actually mean that Russia is leaving the ECHR. It was a response to a decision of the ECHR about the unfettered right to tap phone calls and Article 8. This Government remain absolutely committed to the protection of human rights, both here and abroad, on this international Human Rights Day. We are party to no fewer than, I think, seven explicit treaties protecting human rights, as well as many others which bear on them. We will remain within the convention and the obligations under Article 46. Any future plans will involve the protection of all those rights contained within the convention.

Lord Goldsmith (Lab): My Lords, does that mean that the Government accept the proposition put by the noble Lord, Lord Marks, that they will not try to rule out the obligation of this country to comply with decisions of the European Court of Human Rights? Does the Minister agree that, given the proud history that this country has had leading other countries in Europe, if we were to take a different view it could mean the dismantling of the fairer and more just Europe which we in this country, including his party, have tried to maintain and to build?

Lord Faulks: As the noble and learned Lord knows, Article 46 requires all members of the Council of Europe to adhere to the convention, and the implementation of decisions is subject to the supervision of the Committee of Ministers. We have an extremely good record in complying with recommendations of the Committee of Ministers. There is one outstanding matter, of which the House is well aware, where there is a tension between a decision clearly made by Parliament and a decision made by the Committee of Ministers. My ministerial colleague attended the day before yesterday; we have yet to hear the outcome.

Lord Anderson of Swansea (Lab): My Lords, does the Minister accept that to remove ourselves from the convention means in effect to remove ourselves from the Council of Europe, for which this is the bedrock?

Does he also recall that the Prime Minister sacked the former Attorney-General precisely because of his concerns over this and that the only countries which will rejoice if we adopt this policy of half-in half-out when choosing whether to accept judgments of the court will be the serial defaulters, such as Russia?

Lord Faulks: Clearly, I would not wish to comment on the circumstances of the former Attorney-General's departure from government. I accept that it is important that we comply with our treaty obligations and we have no intention of departing from them. We have a proud record of complying with human rights obligations and protecting human rights throughout the world. It is no part of the Government's intention that we in any way weaken our resolve to protect human rights here or abroad.

Lord Lester of Herne Hill (LD): My Lords, the Minister has been more equivocal in his replies to this House than was Michael Gove in the evidence he gave to the Constitution Committee recently. Will the Minister confirm that the Government have no intention of following the example of the Russian Federation in its recent legislation?

Lord Faulks: I have, of course, read what the Secretary of State said to the Constitution Committee, of which the noble Lord is a distinguished member. I do not think anything I have said is divergent from the evidence he gave and we certainly have no intention of legislating specifically as the Russian Duma did yesterday.

Lord Bach (Lab): My Lords, given the extremely difficult situation the world community faces, is this really the right moment to repeal the Human Rights Act? Do the Government really believe they are setting a good example to other countries, some of which may not have the same respect for the rule of law as we traditionally have, by repealing the Human Rights Act and inevitably coming into conflict with the ECHR?

Lord Faulks: The repeal of the Human Rights Act is part of a manifesto commitment; it does not in any way diminish our respect for the importance of protecting human rights. What we are concerned with is the overreach of the Strasbourg court and the relationship between this Parliament, the Supreme Court and the Strasbourg court. This does not mean that there is any diminishing of our respect for the protection of human rights.

Lord Judd (Lab): Does the Minister recognise that while he keeps referring to our good record in this respect, Russia has a very bad record and is introducing legislation to try to give effect to its dissent? Does he not understand that it would have a historic significance if we were to withdraw because it would lend credence to the present moves within Russia and, indeed, encourage such activity elsewhere?

Lord Faulks: As I indicated to the House and the noble Lord, it is not our intention to withdraw from the ECHR, although, as the Secretary of State said, we cannot rule it out absolutely. We are confident that we can realign our relationship with the Strasbourg

[LORD FAULKS]

court in a satisfactory way, which means we comply with our international obligations and bring some common sense back to the business of human rights.

Lord Lawson of Blaby (Con): My Lords, does my noble friend agree that this country's proud record of respecting human rights goes back well before the creation of the Strasbourg court? As far as courts are concerned, does he also agree that the membership of our Supreme Court is at least as distinguished as the membership of the Strasbourg court and that some would say more so?

Lord Faulks: I am grateful to my noble friend. He is, of course, absolutely right that this Parliament and our courts have always been astute at protecting human rights. We had human rights long before 1998, when the Human Rights Act was brought into force. Our Supreme Court will continue to protect them. Our Supreme Court has the admiration of the whole country. The Strasbourg court has judges of, I have to say, varying quality.

Business of the House

Timing of Debates

11.50 am

Moved by **Baroness Stowell of Beeston**

That the debates on the motions in the names of Lord Howarth of Newport and Baroness Wheeler set down for today shall each be limited to two and a half hours.

Motion agreed.

Bank of England and Financial Services Bill [HL]

Order of Consideration Motion

11.50 am

Tabled by **Lord Bridges of Headley**

That the amendments for the Report stage be marshalled and considered in the following order:

Clauses 1 to 13, Schedule 1, Clauses 14 to 16, Schedule 2, Clause 17, Schedule 3, Clause 18, Schedule 4, Clauses 19 to 33, Title.

Lord Ashton of Hyde (Con): My Lords, I beg to move the Motion standing in the name of my noble friend Lord Bridges on the Order Paper.

Motion agreed.

Southern Health NHS Foundation Trust

Statement

11.51 am

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con): My Lords, I shall now repeat as a Statement the Answer to an Urgent Question given in another place by my right honourable friend the Secretary of State for Health on the report into the investigation into deaths at Southern Health NHS Foundation Trust.

“Mr Speaker, the whole House will be profoundly shocked by this morning's allegations of a failure to investigate more than 1,000 unexpected deaths by Southern Health NHS Foundation Trust. Following the tragic death of 18 year-old Connor Sparrowhawk at Southern Health NHS Foundation Trust's short-term assessment and treatment unit in Oxfordshire in July 2013, NHS England commissioned a report from audit providers Mazars into unexpected deaths between April 2011 and March 2015.

The draft report, submitted to NHS England in September, found a lack of leadership, focus and sufficient time spent in the trust on carefully reporting and investigating unexpected deaths of mental health and learning disability service users. Of 1,454 deaths reported, only 272 were investigated as critical incidents, and only 195 of those were reported as serious incidents requiring investigation. The report found there had been no effective systematic management and oversight of the reporting of deaths and the investigations that followed.

Prior to publication or, indeed, showing the report to me, NHS England rightly asked the trust for its comments. It accepted failures in its reporting and investigations into unexpected deaths but challenged the methodology, in particular pointing out that a number of the deaths were outpatients for whom it was not the primary care provider. However, NHS England has assured me that the report will be published before Christmas, and it is our intention to accept the vast majority, if not all, of the recommendations it makes.

Our hearts go out to the families of those affected. More than anything, they want to know that the NHS learns from tragedies such as what happened to Connor Sparrowhawk, and that is something we patently fail to do on too many occasions at the moment. Nor should we pretend that this is as a result of the wrong culture at just one NHS trust. There is an urgent need to improve the investigation and learning from the estimated 200 avoidable deaths that we have every week across the system.

I will give the House more details about the report and its recommendations when I have had a chance to read the final version and understand its recommendations, but I can tell the House about three important steps that will help to create the change in culture we need. First, it is totally and utterly unacceptable that only 1% of the unexpected deaths of patients with learning disabilities were investigated, so from next June we will publish independently assured Ofsted-style ratings of the quality of care offered to people with learning disabilities for all 209 CCG areas. This will ensure that we shine a spotlight on the variations in care, allowing rapid action to be taken when standards fall short.

Secondly, NHS England has commissioned the University of Bristol to undertake an independent study of mortality rates of people with learning disabilities.

Thirdly, I have committed to the House previously that next year we will publish the number of avoidable deaths by NHS trust. Professor Sir Bruce Keogh has worked hard to develop a methodology to do this and will write to medical directors at all trusts in the next week explaining how it works and asking them to

supply estimated figures that can be published in the spring. Central to this will be instilling a no-blame reporting culture across the NHS where people are rewarded, not penalised, for speaking openly and transparently about mistakes.

Finally, I pay tribute to Connor's mother, Sara Ryan, who has campaigned tirelessly to get to the bottom of these issues. Her determination to make sure the right lessons are learnt from Connor's unexpected and wholly preventable tragic death is an inspiration to us all. Today, I would like to offer her and all other families affected by similar tragedies a heartfelt apology on behalf of the Government and the NHS".

11.54 am

Lord Hunt of Kings Heath (Lab): My Lords, these are truly shocking revelations and reveal deep failures at the trust. I start by echoing his remarks about the families so grievously affected.

As the Minister said, only 195 of the 1,454 unexpected deaths were actually treated by the trust as serious incidents requiring investigation. Perhaps most worryingly, it appears that the likelihood of an unexpected death being investigated depends hugely on the patient. For those with a learning disability, just 1% of unexpected deaths were investigated. For older people with a mental health problem, just 0.3% of unexpected deaths were investigated.

Obviously, we will expect a full response from the Government when the report is published, but in the mean time, can the Minister say whether he judges services at the trust to be safe? What advice can he give patients currently in the care of this trust, and their families? He explained that NHS England first received the report in September. Can he say why it has not yet been published, and when a final report will be made available?

Finally, I want to raise an issue the Minister himself mentioned. I understand that the trust disputes the analysis by the audit company Mazars, which produced the report. NHS England needs to sort this out. When the report is published, it is clearly vital that there be no question about its methodology or the robustness of its conclusions. Is he absolutely confident that NHS England has got a grip of this?

Baroness Walmsley (LD): My Lords, our hearts go out to the family of Connor Sparrowhawk and all the other families who have struggled so hard to get investigations of the unexpected deaths of their loved ones. On many occasions they have struggled to find the financial support required to make that investigation. That is quite wrong. In this particular hospital's case, the percentage of unexpected deaths that was investigated is pretty scandalous. In fact, across the board, only 1% of unexpected deaths of those with learning disabilities are investigated.

I very much welcome the Minister's saying that a light will be shone on this, but will the investigation bear in mind the possibility that it should not be the hospital trust itself that decides which of its unexpected deaths should be investigated? Police forces no longer investigate themselves—that is done by another police force. Should that not be the case with hospitals too?

My second question is about timeliness. The report is not the first indication we have had of problems with this trust. The coroners have complained on numerous occasions, and over a long period, about the timeliness and quality of the reports received by them on cases that were investigated. Surely this indicates that there have been problems with the administration, the collection of evidence and the systems of this trust. Why was that not picked up earlier?

Lord Prior of Brampton: My Lords, the noble Lord, Lord Hunt, gave two very important figures: 1% of these incidents involving people with learning difficulties were investigated and 0.3% involved people with learning difficulties who are older. We have not got it right in this country when it comes to people with learning difficulties. We have not fully learnt the lessons of Winterbourne View. However, NHS England has now published this new strategy for people with learning difficulties and mental health problems. We will hold it to account for delivering that. I think that represents a step change in trying to get as many of these people out of hospital settings—"from hospital to home" is the line in the report—which is so important. That is the fundamental issue that we should not lose sight of.

NHS England received the report in September. It has not yet been published because it had to give the trust a chance to comment on it, and the methodology has to be fully sorted before it is published. However, Jane Cummings has given a commitment to the Secretary of State that the report will be published before Christmas. So does NHS England have a grip? I think it does.

On the question of an independent investigation, which the noble Baroness, Lady Walmsley, raised, the trust has to be the first line in this. It is up to the trust to have the right culture within it so that these incidents come to the surface. We now have a much more empowered CQC providing independent inspection, and of course the Secretary of State has agreed to set up an independent investigation branch, on the recommendation of the PASC, which will be operable from March.

Lord Cormack (Con): Will my noble friend institute an emergency review, through the CQC or wherever, to try to establish that this is an isolated incident and that there are not more horrors waiting to be discovered?

Lord Prior of Brampton: My Lords, I certainly cannot give a guarantee that this is an isolated incident. Often in the past we have taken these awful events when they happen and tried to say that they are isolated. The fact is that there are many trusts that the CQC has characterised as requiring improvement, so I cannot give my noble friend an assurance that this is an isolated incident. However, I can reassure him that our inspection procedures are much more robust than they used to be.

Lord Campbell-Savours (Lab): My Lords, we have had repeated references to unexpected deaths, but no details. What are the causes of these unexpected deaths?

Lord Prior of Brampton: Avoidable deaths are estimated at some 10,000 a year. "Unavoidable deaths" is the phrase that I think I used, which are estimated at some 10,000 a year. That is not out of line with what is

[LORD PRIOR OF BRAMPTON]

found in other countries, such as America and Germany. However, it should not be accepted, which is why the Secretary of State has asked Bruce Keogh to produce these new statistics for every trust, starting from next spring.

Lord Patel (CB): The Minister might want to look at those figures again, and correct them with a letter if necessary, regarding avoidable and unavoidable deaths. Turning to my question, on a daily basis now we get at least two items of bad news relating to the NHS, mental health, public health or other issues in social care. Is it not time to look at the whole organisation of the NHS, including funding and so on, through an independent commission? Why would the Government not do that? The Opposition might not support it but it would take politicians out of it and we might end up with a better service.

Lord Prior of Brampton: The noble Lord makes an interesting point. We have a much more transparent system than we used to. Surely it is better that we know about what is going wrong within the NHS rather than that we cover it up as it was in the past.

Lord Mawhinney (Con): My Lords, after all the investigations, inquiries and reviews relating to the terrible events at Mid Staffordshire NHS Foundation Trust, your Lordships' House was told that no one was to blame. Is it the Minister's initial instinct that after these shocking new facts have been analysed, reviewed, examined and so on, the House will again be told that no one was to blame?

Lord Prior of Brampton: My Lords, I do not think anyone was told that no one was to blame as a result of the investigation into Mid Staffs. There were failures at all levels within the NHS with the regulation, the professions and the management of that particular trust. I believe that transparency is the right way to deal with the systemic problems that we have in many of our hospitals.

Lord Harris of Haringey (Lab): My Lords, if you are to achieve transparency, is it not the case that, first of all, as the noble Baroness, Lady Walmsley, has suggested, there should be an independent element in deciding whether a particular death is going to be investigated at all, and, secondly, there must be some independence in the nature of that investigation? Too often those investigations are too close to the establishments concerned. Does there not also need to be some oversight of those independent investigations so that general conclusions of a systemic failure can be picked up, acted upon and brought to his attention as a Minister?

Lord Prior of Brampton: My right honourable friend the Secretary of State for Health is committed to having a blame-free, independent investigation service looking at incidents of this magnitude in the NHS. That is why, on the recommendation of the PASC, he set up the investigations branch which will be up and running in March.

Legal Aid

Motion to Take Note

12.05 pm

Moved by **Lord Howarth of Newport**

That this House takes note of the future of legal aid.

Lord Howarth of Newport (Lab): My Lords, I am not the noble Lord, Lord Bach. Unlike my noble friend, I am not a lawyer, merely a citizen. As a citizen, what should I reasonably be able to expect of our system of legal aid? It is a good subject for debate on Human Rights Day.

To know what we should do in the future about legal aid we should first consider the values that have been violated and the damage that has been done in recent years. In his book *The Rule of Law* Lord Bingham proposed as the core principle:

"All persons and authorities within the state, whether public or private, should be bound by and entitled to the benefit of laws publicly made ... and publicly administered in the courts".

He traced the genesis of the rule of law to the coronation oath and to Magna Carta, which declared,

"to no one will we sell, to no one deny or delay right or justice".

It is insufficient, however, if legal rights are merely declaratory; they must be enforceable by all to whom they apply. With the development of legal aid in the 20th century, publicly funded legal advice and legal representation became available, if not to all citizens, to a vastly greater proportion of them. The institution of legal aid, enacted by a Labour Government, despite post-war austerity, in the Legal Aid and Advice Act 1949, marked one of the great constitutional advances in our history. Over the next 40 years, the scope of legal aid was extended to more of the courts and to more classes of case.

Then, in 1987, the Conservative Government commenced a long attrition of public spending on legal aid. The Labour Government more or less carried on the policy after 1997. But it was the coalition Government that really took the axe to legal aid. The coalition parties had no mandate for this; their manifestos had not hinted at it. They claimed that the global financial crisis obliged them to make drastic cuts to the legal aid budget. Kenneth Clarke's Legal Aid, Sentencing and Punishment of Offenders Act 2012—LASPO—excluded all but the very poorest from eligibility for civil legal aid and took out of scope, with only very limited exceptions, clinical negligence, employment, private family law, housing, debt, immigration, education and even social security.

At the very same time, the Ministry of Justice was wasting very large sums elsewhere. The department was being ripped off by contractors claiming money for tagging non-existent prisoners and was duplicating an internal IT system in ignorance of a parallel project being run by the Cabinet Office.

Mr Clarke's successor, Chris Grayling, placed a novel interpretation on the Lord Chancellor's oath of office, to,

"respect the rule of law, defend the independence of the judiciary and discharge my duty to ensure the provision of resources for the efficiency and effective support of the courts for which I am responsible".

He set about an extensive and extraordinary assault on the rule of law, including a further attack on legal aid. In 2013, he announced his intention to cut another £200 million per annum. In a consultation paper with the Orwellian title *Transforming Legal Aid: Delivering a More Credible and Efficient System*, he proposed further narrowing of the scope of matters covered by civil legal aid, for example prison law and judicial review; further reductions in payment rates for areas of civil legal aid that remained within scope, such as childcare cases; restructuring of the criminal legal aid market with cuts in legal aid rates for solicitors and barristers; and further restrictions on eligibility, for example a residence test.

In response to the consultation, writing in the *Solicitors Journal*, John Halford and Mike Schwarz said:

“Legal aid is not a welfare benefit; it is an equalising measure. Its aim is to ensure that everyone subject to UK jurisdiction can enjoy their rights in a meaningful way through access to legal advice when it would otherwise be unaffordable and representation funded to the extent necessary to ensure that the merits of any court case will determine the outcome, rather than the relative wealth or power of the opposing parties”.

They went on:

“These fundamental principles remain shamelessly compromised by the Government’s proposals ... The crime proposals perpetuate a dangerous trend; those for civil work will create a silenced minority whose cases will never be heard by our courts, regardless of their merits or what is at stake”.

As the President of the Supreme Court, the noble and learned Lord, Lord Neuberger, has said, when a case is dropped for lack of legal aid, it is,

“a blot on the rule of law”.

A YouGov poll in April this year found that 84% of the public rated access to justice a fundamental right. Without access to justice, inequality becomes more dangerous. Yet net expenditure on legal aid fell from £2.2 billion in 2011-12 to £1.6 billion in 2014-15. A letter to the *Guardian* on 1 May this year, signed by more than 100 senior lawyers, said:

“The effect of the cuts is reflected in eye-watering statistics. From 2012-13 to 2013-14, debt cases fell from 81,792 to 2,423 and in clinical negligence from 2,859 to 114. In employment law, legally aided cases fell from 16,154 to six in the same period”.

It is to the credit of Mr Grayling’s successor, Michael Gove, that he has spent his first six months in office seeking to clear up the mess left by his predecessor. His speech to the Legatum Institute, on a one-nation justice policy, showed his grasp of the principles that should guide him in his office. He acknowledged:

“While those with money can secure the finest legal provision in the world, the reality in our courts for many of our citizens is that the justice system is failing them. Badly”.

I hope that the attitude of the new Lord Chancellor will reopen the possibility of a consensus—a positive consensus—between the political parties on legal aid. He has, however, given no commitment to restore any state-funded legal aid. No crumbs were forthcoming from the Chancellor of the Exchequer’s table when it was found to be laden with an extra £27 billion.

The consequences of the reductions in legal aid have been fourfold: denial of access to justice, human suffering, failure to achieve the intended savings, and damage to the legal profession.

Problems that could have been addressed quickly and cheaply through early advice have become costly social, mental health or welfare issues. The commission of the noble Lord, Lord Low, has described these ravages. I also commend to noble Lords Shelter’s analysis of the effects on housing and homelessness. The LASPO cuts in legal aid have reduced funding for its legal services by 50%. It has been forced to close nine services around the country.

An article in the *Guardian* on 7 November reported from another devastated zone. Sitting in on family law cases in court, the author, Louise Tickle, witnesses “the extreme stress” that litigants in person, in states of heightened emotion, find themselves under. A barrister tells her of,

“dads who think the court process is inherently biased against fathers, who feel disempowered and unable to pursue their case without help—so they don’t try, and the result is that they don’t have any contact with their children at all. That’s disastrous”.

Alistair MacDonald QC, chairman of the Bar Council, told readers of the *Times* on 26 March 2015:

“Recently the legal aid agency denied support to a mother with learning difficulties as she fought for custody of her child, claiming their decision did not breach her right to a fair trial. The woman could not read or write. We have seen cases where children and partners have faced being cross-examined by fathers who have been accused of abusing them”.

The LASPO assault on legal aid coincided with the Treasury’s assault on social security funding in a pincer movement against the poor. The president of the Law Society, Jonathan Smithers, has said that, following the exclusion of 600,000 people a year from legal aid:

“The lack of access to justice in this country for a significant proportion of our population undermines society itself”.

The National Audit Office reported a 30% increase in cases starting in family courts in 2013-14 in which neither party had legal representation. The huge increase in litigants in person points to a deterioration in the quality of justice. This is not the fault of judges, who attempt patiently to guide litigants in person through bewildering court procedures and maintain a fair balance between contesting parties. There has been a significant increase in the costs of running courts in the Family Division as cases take longer.

The Public Accounts Committee on 19 January 2015 stated:

“The Ministry of Justice ... is on track to make a significant and rapid reduction to the amount that it spends on civil legal aid. However, it introduced major changes on the basis of no evidence in many areas, and without making good use of the evidence that it did have in other areas. It has been slow to fill the considerable gaps in its understanding, and has not properly assessed the full impact of the reforms. Almost two years after the reforms, the Ministry is still playing catch up: it does not know if those still eligible are able to access legal aid; and it does not understand the link between the price it pays for legal aid and the quality of advice being given. Perhaps most worryingly of all, it does not understand, and has shown little interest in, the knock-on costs of its reforms across the public sector. It therefore does not know whether the projected £300 million spending reduction in its own budget is outweighed by additional costs elsewhere”.

What an abysmal way to govern. The Government consider justice too expensive. They need to grasp that injustice is even more expensive. The rule of law underpins not only a just and humane society, but the health of our economy.

[LORD HOWARTH OF NEWPORT]

LASPO has also ended the careers of many legal aid lawyers and advisers who had dedicated their working lives to enabling disadvantaged people to have access to justice. The Government have squandered this resource. Organisations such as the Norfolk Community Law Service are fighting back, for example by providing work experience for law students in their free legal advice services. But voluntary and pro bono work is no substitute for legal aid.

The noble and learned Lord, Lord Woolf, has said in this House that,

“it would be difficult today for any responsible person to advise a youngster coming into the profession to take up a criminal practice”,

noting:

“The quality of our judges is dependent on the quality of the legal profession from which they are drawn”.—[*Official Report*, 10/7/14; col. 332.]

Last year, the Government reduced litigators’ fees by 8.75%. This year, they have published regulations for a second draconian cut of 8.75%. Meanwhile, the Law Society reported that 120 providers were facing bankruptcy as a result of the previous cuts. We have seen boycotts by solicitors and barristers of new cases paid at the lower rates of legal aid. With the reduction in funding for legal aid work and in the volume of legal business, as my noble friend Lord Beecham has warned, firms are not recruiting trainee solicitors.

In opening this debate I have attempted to sketch the problems that surround legal aid. My noble friend Lord Bach will be chairing a review of the future of legal aid. The president of the Law Society has said of reform:

“You need to start by asking, ‘What do we want to achieve, what does good justice look like, and how are we going to get that?’”.

My noble friend will also need to establish the full facts. The Government should provide a comprehensive cost-benefit analysis of the impact of LASPO and other cost-cutting measures. If the Government will not bring forward their review of LASPO, he should do it for them.

My noble friend’s review may wish to examine the factors that have driven the demand for legal aid, because they all continue to apply. These include the huge increase in the volume of law and the creation of many more criminal offences. There has been the increase in family breakdown. Affluence and the greater availability of credit have increased demand for consumer redress. With technological change, data protection issues have become more important. With better education and more information, more people have become aware of their legal rights and sought to assert them. There has been a growing insistence that the Government and other public agencies should be accountable and be made to provide redress when they are at fault. All these are legitimate reasons for the growth of legal aid.

The decent way to constrain legal aid spending will be to deal with underlying causes that are not acceptable: bad landlords, bad employers, reckless moneylending, non-payment of debts and chaotic immigration. Limiting the growth in legal aid requires a responsible, activist state.

While accepting, of course, the need for financial discipline, for the elimination of abuse where it exists and for efficiency within the legal aid system, my noble friend should accept that, as economic growth is achieved, some of its fruits should be used to restore funding to legal aid, bringing back into scope categories that were so wrongly excluded, easing the severity of the means tests, and paying rates that are viable for the legal profession. The rule of law, after all, is beyond price. He may also want to look at the option of an indemnity or insurance fund, and he may wish to consider whether less adversarial processes are appropriate in some areas, perhaps in the family courts.

My noble friend’s review will be about more than damage limitation. It will set out what the desirable dispensation for legal aid should be in the future. I know that my noble friend will make a clarion call for equal access to justice. I beg to move.

12.20 pm

Lord Lester of Herne Hill (LD): My Lords, I congratulate the noble Lord, Lord Howarth, on his powerful speech, with which I agree. I am very sorry that the noble Lord, Lord Pannick, cannot be with us today, owing to a family bereavement, but his powerful essay in the *Times* today says everything with which I also agree.

Today is international Human Rights Day. One fundamental human right is effective access to justice, protected by the Human Rights Act and the common law. It is a state’s duty to provide a system of legal aid that enables everyone, including the poor and not so rich, to have effective access to courts and tribunals. Fifty years ago when I began to practise law, our legal aid system was the best in the world. It was the Attlee Government’s great achievement to have brought in the Legal Aid and Advice Act at a time of severe post-war austerity. Its vision was that no one should be unable to defend a legal right or bring a just and reasonable claim because of lack of means.

I am proud to be honorary president of the Liberal Democrat Lawyers Association. We have always toasted the health of the 1949 Act at our annual dinner. Now there is little left to toast. Legal aid has been treated as the Cinderella of the welfare state—an easy target for the Treasury’s axe. Successive Governments have cut legal aid to the bone. In 1949, eight in 10 people had access to legal aid, based on income and assets. By 1986, six in 10 were eligible. By 2008, just shy of three in 10 satisfied the means test. In 2009, an independent review concluded that it would be wrong to tighten the screw any further. However, the coalition Government made swingeing cuts without adequate research into their probable impact.

The yearly budget for civil legal aid before the cuts was £2 billion in total—equivalent to running the NHS for a fortnight. It was reduced by £300 million, and plans were announced to cut criminal legal aid by £220 million every year until 2018. The civil legal aid reforms swept whole areas of law out of the safety net—family, debt, housing, employment, immigration, medical negligence, education and welfare benefits—with narrow exceptions. This House voted against the legislation 14 times before it squeaked through.

The Government anticipated that reforms would encourage potential litigants to engage in alternative dispute resolution. Those calculations were misjudged. In January 2015, the Commons Public Accounts Committee found that mediation for family law matters had fallen by 38% rather than increasing by 74% as the ministry expected. As Lord Scarman discovered when he spent three days trying to solve a social security problem for his cleaning lady, welfare law is as complex as tax law, yet as more and more legal advice centres are starved of funding, litigants must represent themselves.

The cuts come at a time of stringent reductions in other public services, when the need for access to justice could not be greater. Whenever people cannot have access to legal assistance, one sees spiralling debt, mental health problems, homelessness, criminality and family breakdown—all with knock-on costs to other public services. In compelling evidence to the Commons Justice Committee, Islington Law Centre reported that two people had collapsed in its offices because of a lack of food. They had received benefits sanctions and had not contested them. In one case, a man had not eaten for six days; in another, a woman was unable to feed herself and her three young children. The exceptional funding scheme was intended to be a safety net, but the application process remains so complicated that people cannot use it.

The previous Lord Chancellor imposed exorbitant taxes on justice. For the first time, court fees do not reflect the administrative costs of the court: instead, the Treasury profits from people seeking to enforce their legal rights. The justice system is too expensive for traders, small businesses and the victims of personal injuries. I warmly welcome last week's decision by the new Lord Chancellor to scrap the criminal courts charge and announce a review into court-ordered financial impositions for offenders. I hope that he will also reverse the increase in court and tribunal fees in civil cases.

In December 2014, the previous Government promised a post-implementation review,

“on a period of three to five years”—[*Official Report*, 4/12/14; col. 1402.]

after the implementation of LASPO. Waiting until 2018 for a comprehensive review is too long. Post-legislative scrutiny should begin in April 2016. I hope the Minister agrees. It is vital that these assaults on our two-nation justice system are reversed. What use is the rhetoric of human rights if the system, like the Ritz hotel, is open only to the rich?

12.26 pm

Lord Goldsmith (Lab): My Lords, I, too, congratulate my noble friend on initiating this debate. That he opened the debate as a non-lawyer is not a deficiency; it is a strength. It underlines the fact that legal aid is not just a specialist interest for the legal profession: it is about ordinary people, and everyone in our country who needs legal advice and legal assistance. I want to speak about one particular aspect of that—the effect of the legal aid cuts on the voluntary sector, which provided a great deal of support to people in need. I declare interests as the current chairman of the Access to Justice Foundation and as the founder and president of the Bar Pro Bono Unit.

It is also important to take account of the effect on young people in the legal profession. I note that among the speakers for this debate are two former Lord Chief Justices and one former member of our highest court. I hope and expect that they, as well as the other distinguished speakers, will be able to draw attention to other features that I shall not touch on in my few brief remarks.

Legal advice can make an enormous impact on people's lives. It can help to reduce poverty and suffering. It has been shown that it also has an impact on government services. If we reduce welfare advice there is an effect on doctors: the amount of advice that they then must give adds even further to their burdens in the National Health Service. That is why legal aid was originally intended to provide a structure to enable legal issues to be identified at an early stage, as well as to deal with disputes once they had arisen.

In that field, the law centres and the citizens advice network have played an enormously important part—but the law centres have lost 40% of their funding since 2011. They used that funding enormously effectively, partly to fund some of their other services, because they could use the green form scheme and other schemes to fund their general activities. Let us take one statistic as an example. In 2005, 30,000 women were dismissed as a result of pregnancy discrimination. In 2015, the figure was 54,000. Where do those women get legal advice, and where do they get the money to pay tribunal fees? It has become so difficult for them to get help and enforce their rights.

The law centres were also able to adopt a holistic approach to people's problems. People would come in with a specific problem—a dismissal from employment, a redundancy notice or a particular problem with debt—but the workers in law centres and citizens advice bureaux would often discover that that was only one of the problems that that individual had. They would often have a number of other issues to deal with, which was overwhelming for many people, but the specialist advice available enabled them to access other streams of advice within the centres, which would help to solve their problems. They would often get advice on more than one issue.

How is this now being dealt with? I will touch in particular on the advice and support given by those outside the paid lawyers and the legal aid system, although I utterly support that system and agree with all that my noble friend said. The knock-on effect on our court system is already enormous: a 30% increase across all family court cases in which neither party had legal representation. That is a very serious result. Over the last three years, the number of litigants in person applying to the Bar Pro Bono Unit for help has increased 30% year on year. These are all people who cannot access justice without this assistance and they have to come to free legal advice. The Ministry of Justice report on litigants in person in private family law cases found that only a small minority of litigants in person were able to represent themselves competently in all aspects of their family law proceedings. Any of us who have had any dealings with some of these areas—even the lawyers—will know that that must be the case. These are immensely complicated, difficult

[LORD GOLDSMITH]
 areas and the procedures of our courts make it more difficult still, despite all the efforts of the senior judiciary to make it more straightforward.

There is much talk, therefore, of lawyers doing more. The Secretary of State for Justice has talked about this. In fact, and I speak from experience, the pro bono intentions of lawyers are strong. When I established the Bar Pro Bono Unit I wrote to all barristers and asked them to volunteer 20 hours or three days of their time a year. The response was overwhelming. In my experience they are always willing to give of their help. But while they give voluntarily of their time, there is also a need for infrastructure to challenge that need. That is why organisations such as the Access to Justice Foundation raise money to support organisations that provide free legal advice. That is why it is important that they should be supported in doing that.

However, even with the profession's best intentions there will always be a gap and a need for legal services that is unmet—not from Russian oligarchs or wealthy divorcees, perhaps, but from people who need legal advice to deal with the problems that are overwhelming for them in their everyday lives. I take this opportunity both to thank those who support the pro bono organisations and the voluntary sector that do that, but also to encourage the Government to recognise that they cannot turn to the legal profession simply to say, "Pay more money in this way to support these services". Although the pro bono sector is hugely important, it can never be a substitute for a properly funded legal aid system.

12.32 pm

Lord Judge (CB): My Lords, I begin with an apology. I am afraid that I cannot stay for the entire debate. I have a commitment with the Constitution Committee that means that train and plane will take me to Edinburgh tonight. I apologise to the House, as I have apologised to the Minister.

In the early 1960s I went to have a cup of tea with a High Court judge, hoping to impress him. He made me sit in the back of the court. Over the cup of tea he said, "This is a wonderful system, isn't it?", so I said inanely, of course, "Yes, certainly, my Lord". He said, "Isn't it absurd? I'm trying a case in which £75 is at stake, two insurance companies are battling over it and two of the most distinguished QCs in the country are arguing it. Next week I go out to try crime. Any fool can do that". The implication was plain. He went on: "I didn't get a brief of any kind until I'd been in practice for three years. You're very lucky. The new arrangements for criminal legal aid will make a great difference and it'll make a difference to the system".

I have not time, beyond commending what I have heard so far, to go through all the various facets of this but, at heart, have we not got to recognise that it actually matters whether we lock people up for things they have not done or fail to lock up people for things they have done that they are proved to have done, and that the future of every single child matters when its parents are in dispute? We are talking about whole lives that lie ahead.

I am going to talk about crime because of a great brain drain to the criminal Bar. We see bright, intelligent men and women who have committed themselves to qualification, to training, to pupillage, to finding a tenancy and to practising for 10 years who are now leaving the profession. It is not that they want to make a lot of money but they do want to make a living. They have responsibilities and they want to meet their responsibilities. They are going. Where, I ask, is the future crop of Queen's Counsel to come from, Queen's Counsel available to be briefed by both sides—the defence and the prosecution? Where, I also ask, is the future crop of criminal judges to come from, men and women who have had experience of years in the criminal justice system and who are regarded as competent enough to be appointed to the Bench? For those of us who worry about these things, perhaps the answer is the future students.

In the past three or four years, for a variety of reasons, I have spent many hours with students from famous universities and universities which are not so famous. They want to do law; they want to practise in the legal profession. Being young—not just because they are young—they are enthusiastic. Wonderful—but when you ask them what sort of law they want to do, they do not mention crime. I can think of about half a dozen, perhaps fewer, who have said to me with a willing smile on their face, "I am going to do crime; I think it really matters". The overwhelming majority say they want to do commercial or administrative law, or this, that or the other, and when I say, "But what about crime? Locking people up for things they have not done or not locking people up for things they have done matters", the smile is more wistful and slightly patronising—I do not know what the real world is like. They are not going to do it.

The quality of advocacy matters. After all, we run an adversarial system and are proud of it. An adversarial system is no better than the advocates who do the adversing. The result is—the signs are there to be seen already—our criminal cases are taking longer and longer. The administration of justice cannot be as well done. If you bear in mind that every case that takes longer means that a defendant, sometimes in custody, is waiting for his or her case to come up, you will understand that justice is being damaged. If we go on the way we are doing, 25 years or so from now we will be looking around for the diverse judiciary that we want. We will be going back to the days when to practise at the criminal Bar meant that you came from parents who were reasonably prosperous and who could support you. The young man or woman with no such advantage cannot afford to start at the criminal Bar. I am really asking no more than this: can we please recognise that what was the future in the early 1960s should not become a footnote in history?

12.38 pm

Baroness Mallalieu (Lab): My Lords, after 40 years as a legal aid practitioner I have hung my wig up so I have no direct personal financial interest to declare in this debate, for which we are all indebted to the noble Lord, Lord Howarth, but I do have an indirect one which puts me very much in mind of what has just been said by the noble and learned Lord, Lord Judge.

Despite the strongest possible advice to the contrary, my daughter is now a legal aid practitioner and, in the ironic words of Horace Rumpole, now lives “high on the hog” on the,

“rich pickings of the legal aid system”,
down on the Western Circuit.

The coalition Government’s cost savings to the legal aid budget have come at a heavy price for justice. It was predicted; the warnings were given in this House and everywhere else, and they were disregarded. The figures speak for themselves: 400,000 fewer new legal aid cases in the past year, and those in areas of law which almost inevitably involve the most vulnerable—welfare, debt, immigration and homelessness, victims of domestic violence among them; in 2014 more than 8,000 more cases involving contact with children where neither side was represented; 37,000 men and women without the benefit of qualified legal advice in family matters, usually involving children.

What of the exceptional case funding scheme which we were promised by Ministers would be the safety net? We were told that somewhere between 5,000 and 7,000 people were going to apply, mostly successfully, each year. Yet, between April 2014 and March 2015, only just over 1,000 applied and only 225 were granted help. The guidance given to those hoping to apply and the scheme itself have more than once been found by the courts to be so unreasonable as to be unlawful. Whatever else happens in future, that scheme has to be simplified and widened so that it does what was promised. As a result of all this, we have already heard about the tidal wave of litigants in person, who are not only slowing up the courts but drawing judges and court staff into the litigation in attempts to make sure, or try to make sure, that injustices do not occur.

Others who know more about civil legal aid than I do have already spoken, or will be speaking later, about the effects to people of the civil legal aid cuts and the extent to which access to justice is now denied to people in need. However, I cannot ignore the criminal justice system—where, of course, legal aid still exists—where the real damage is less immediately apparent. The noble and learned Lord, Lord Judge, has just indicated some of it. You would be mad to go into the criminal Bar now. Indeed, what other profession has seen its remuneration fall since 2007 by nearly 50%? Those who think lawyers are overpaid are not thinking of the legal aid practitioners.

It is surely in all our interests that criminal offences should be prosecuted fairly and competently by those who are experienced and that those who are accused of crime are also properly represented. There is no question that advocates are now much better trained than we were when I entered the profession. For a start, they have to do advocacy training, which we never did, in addition to continuing professional development and so on. However, I can still see that the quality of the service they are able to provide is being drastically eroded.

Certificates for two counsel on legal aid are as rare as hens’ teeth. The result is that a rape trial, which used always to command a leading counsel, now rarely does, despite the fact that rape is now treated far more seriously than it ever was 20 years ago. I am aware of a

contested case last year in which both the prosecution and the defence were conducted by counsel of under 10 years’ call, both having been refused a Queen’s Counsel, the case involving the rape of a very young child and the defendant receiving a sentence of 26 years. It is as if consultants were no longer allowed on the NHS. Very young advocates are dealing today with some of the most stressful cases, and we are all aware that there is a huge increase in distressing sex cases.

There is the additional difficulty in some places of finding experienced counsel to take on the prosecutions, which generally pay even less than the defence. The fee structure is hopelessly illogical, with the result in one case of which I am aware that three days’ work was remunerated with £40, which did not cover the cost of travel to court. In the west country—I have said this before in this House and have received reassuring answers which are incorrect—the Crown Prosecution Service is on the verge of collapse, with the result that barristers are approached directly by the police because no one answers the phone at the CPS, which is hopelessly understaffed and underresourced, and advices are not dealt with, causing the consequent inevitable delays and unnecessary adjournments.

Once upon a time, not long ago, the best-known common lawyers in the land would still take a legal aid case at the Old Bailey. If you wanted to be represented by George Carman, there was a very good chance that he would agree to do it. Now there is no way you could get the noble Lord, Lord Faulks, into the Old Bailey on legal aid, or anyone else in the other branches of the profession.

We had the best legal aid system in the world, both civil and criminal. There were savings that had to be made and could have been made. With a little more investment in digitalisation, unnecessary hearings could be avoided; virtual conferencing could take the place of much of what goes on in court; and with better case management and a sane fee structure, these savings could have been made and still could. It has taken very few years to inflict terrible damage on a system that was the best in the world.

I am not holding my breath, but I am encouraged by our current Lord Chancellor, who has in some areas recognised that change is to be made. However, it needs to be recognised that some of the Government’s attempts to save money have been ill-directed. They must be reviewed and repaired before hopelessly irreparable damage is done.

12.45 pm

Lord Dykes (Non-Aff): My Lords, at the beginning of this debate I was worried that I had deliberately decided not to have a written text but to listen very carefully to the experts. The noble Lord, Lord Howarth of Newport, need not have worried himself about being a non-lawyer. I agreed with all his excellent and detailed offerings. I am an amateur in this matter but I share his indignation.

I have had plenty of conversations, particularly with young lawyers, the group that my noble and learned friend Lord Judge mentioned, or lawyers starting out on their careers. I know the intense demoralisation that they often express in all kinds of circumstances

[LORD DYKES]

when asked what they do or are planning to do. That never was so before. The legal profession stood proud and was adequately and respectably remunerated without excess, bar some rare and exceptional cases.

I have benefited very much as an amateur listener to this debate, joining in without a written text deliberately, because I agree so strongly with the tone of indignation in the five preceding speeches. I thank the noble Baroness, Lady Mallalieu, as an expert who added weight to her evidence in sharing the demoralising experiences of a member of her family. I particularly thank the noble and learned Lord, Lord Goldsmith, whose reputation as Attorney-General is very distinguished, for his offerings today. These disturb me greatly. The fall in the number of cases now qualifying for legal aid is truly shocking. I am glad that the noble Lord, Lord Bach, who will be replying on behalf of the Opposition, has, I think, already started his review of the legal aid system and what should be done. I believe that he hopes to present a report to the next Labour Party conference. It will be very important indeed to see what that says. The extraordinarily modest total savings—although having a dire consequence for the people and families who are suffering—are not a major component of the Government's spending cuts. Cuts in other areas might be more justified. To promise a further decrease in the fees being paid just adds to the stunning demoralisation among lawyers that I have already related. This has got to be taken in hand.

I am very glad that the noble Lord, Lord Faulks, is going to reply today because I hope he will reassure us that there will now be the beginnings of what I hope will be the Gove revolution to get more sanity and balance into this whole system. Mr Gove started off well, abolishing the absurd extra court charges that were already distorting the practice of justice in our courts. That is very difficult for people in the legal profession, who are very proud of our legal achievements in the post-war period, to entertain and suffer. Abolition is therefore very important indeed.

The noble and learned Lord, Lord Falconer, in commenting about these matters in the debate on the Queen's Speech, said:

“There are no proposals to deal with the damage done in the last five years in the area of justice—for example, the decision to take the overwhelming majority of social welfare law out of the scope of legal aid. Now it is no longer possible to obtain legal aid in the areas of welfare benefit law; employment law; housing law, except possession cases; debt law; and much of immigration law”—

a growing theme because of the crisis that we face both here and in other European countries—

“relevant to all but particularly to the poor, the marginalised, the vulnerable and the disabled”.—[*Official Report*, 1/6/15; col 168.]

That is really a shocking thing for a distinguished former Lord Chancellor to have to say, and the Government must listen carefully to these voices, which are not tendentious or artificial but genuine. I also welcome that the noble Lord, Lord Marks of Henley-on-Thames, will be replying on behalf of the Liberal Democrat group, given his distinguished record and experience as a practising senior lawyer. I hope he will really deal with these matters.

Some time ago, in October 2013, the noble and learned Lord, Lord Neuberger, gave a speech arguing that the impact of the changes to legal aid provision would result in people being denied access to justice and would constitute,

“a blot on the rule of law”.

That is strong language indeed for senior judges and lawyers to use. This goes into the realm of politics, as well. This Government have built up a reputation—albeit, I hasten to remind the House, on the basis of 24% of the electorate and 37% of the turnout voting for them; not a really significant figure—of pursuing tendentious policies that cause social distress, particularly to families dealing with the cases I have already referred to. The Government must think again. There is a chance to do so. The amounts of money involved are not crisis-creating but modest, although for individuals they are absolutely vital for their future welfare and survival.

12.51 pm

Lord Low of Dalston (CB): My Lords, it is always a pleasure to follow the noble Lord, Lord Dykes, with whom I so often find myself in accord. I thank the noble Lord, Lord Howarth, for securing this debate. The legal aid landscape is in such flux these days that it is important for Parliament to keep on top of it. I apologise to the noble Lord and to the House that I arrived so late for his opening speech. On the way here, I am afraid I dropped my BrailleNote on the floor and could not get it to start again. It is only thanks to the doorkeepers and staff of the House, who, with great resourcefulness, managed to connect it to the mains, that I have anything at all to say to your Lordships this afternoon.

I first came into contact with the legal aid system some 50 years ago when I was doing a PhD—sadly, still unfinished to this day—on legal aid in criminal cases. To that extent, I suppose I am one of those people whom JK Galbraith described as having built a successful career on their unpublished works. Fifty years later I was brought into contact with the legal aid system again—although things are very different now—when I was asked by the Legal Action Group, with funding from a number of charitable trusts and foundations, led by the Baring Foundation, to chair a commission on the future of advice and legal support on social welfare law in the wake of the cuts to legal aid introduced by the LASPO Act.

When I saw who else was on the commission, I said I did not think I had sufficient expertise to be there at all, to which they said, “That's why we thought you'd make the ideal chair”. As regards the name, we went for something completely boring and bureaucratic—the Low commission—because all the other names seemed too close to campaigns against the LASPO Bill. Some people thought it was a misprint for the Law Commission, and the *Guardian* even got hold of the idea that it was the Low Pay Commission, presumably thinking it had something to do with barristers' remuneration. It was intended to be just a one-year inquiry but the charities were so pleased with our work that they kept funding us to do more. We have now produced three reports but we will probably be drawing things to a close next March.

We saw advice and legal support as a continuum, including public legal education; informal and formal information and general advice, often provided by local authorities; specialist advice; legal help; and legal representation. However, in a situation where we have to accept that there will be less money for legal help and representation, it seemed clear to us that the advice end of the spectrum was going to need to take more of the strain. That is why we have been focusing more, of late, on what needs to be done to strengthen local advice services.

We argued for a national advice strategy, supporting local advice and legal support plans, produced by local authorities with the local not-for-profit sector and commercial advice agencies. I am happy to say that there seems to be an appetite for this on the part of government and a recognition of the contribution the advice sector makes to society. The Minister has always been very supportive. I remember that, at one Question Time, he even commended the Liberal Democrats' endorsement of this approach in their election manifesto.

Money is not really the issue. There is no shortage of potential funding streams—Help Through Crisis, Reaching Communities, Building Better Opportunities, the Local Sustainability Fund, Commissioning Better Outcomes, the Social Outcomes Fund and the Troubled Families programme. What is needed is co-ordination of these funding streams, with provision for advice services as a central strategic theme.

There is one other matter I want to raise because of the impact it has had on access to justice. There has been a massive hike in fees for taking a case to an employment tribunal. From nothing at all in August 2013, the issue fee can now be £250 and the hearing fee as much as £950 in more complex cases. These may include discrimination, equal pay and unfair dismissal claims. For claims to the Employment Appeal Tribunal, the issue fee is £400 and the hearing fee £1,200. It has been said that the remission system operating in the civil courts, under which fees can be waived if a party cannot afford to pay, is to be extended to employment tribunals and the Employment Appeal Tribunal. However that may be, since the introduction of fees, the volume of employment tribunal claims has plummeted. Between October 2013 and September 2014, single claims brought by individuals were 64% down on the previous 12 months. Multiple claims were down by 67%. Even if one accepts that the imposition of fees flushed out some unmeritorious cases, it is clearly having a very negative impact on access to justice.

The Government's recent decision to abandon the criminal courts charge is extremely welcome. Can the Minister say if the Government are minded to row back on the system of fees which has obviously had such a deleterious impact on access to employment tribunals?

12.57 pm

Lord Knight of Weymouth (Lab): My Lords, this is the first time I have spoken on legal aid. I normally leave that to those in this House with a wealth of expertise, particularly from the legal profession, and to those from whom we have already heard, as exemplified by the excellent speech from the noble Lord, Lord Low.

I want to take a little time to talk about the importance of access to justice. Let me talk about three people. Two years ago, I visited New Orleans for the first time. My Dorset friend, Emily, suggested meeting John Thompson. So, one afternoon, we were waiting just outside the French Quarter when John rolled up in his car and let us into his building. It was in many ways like any community building we have all visited. On the walls, however, were pictures of middle-aged black men, with their stories written below. These were stories just like John's. He told us about his experience of being on death row as a convicted murderer in the Angola prison in New Orleans. He was exonerated after 18 years on death row. He was released suddenly—unemployable, homeless and mentally not healthy. He had to then prove innocence to qualify for compensation from the state of Louisiana. He overcame these obstacles to found his centre, Resurrection After Exoneration.

While we talking, an older man hobbled in with a styrofoam tray of fried chicken. Two months previously he had been exonerated after 30 years on death row. Almost 20 people have been victims of this gross miscarriage of justice. They were all in the wrong place at the wrong time and too poor to afford decent legal representation. All were helped by the Innocence Project New Orleans, established by my friend from Dorset, Emily Bolton. She qualified as a lawyer first in Louisiana and, subsequently, here when she moved home in 2004.

Meeting John really brought home to me the importance of credible legal aid and access to justice. Yesterday Emily emailed me. She said that,

“cuts to police and CPS are eroding the quality of prosecution evidence. In addition, the cuts to legal aid are making miscarriages of justice more likely. This is because the fee structures discourage proactive work by defence solicitors and even the most conscientious among them are unable to do the work needed to achieve justice for their clients pro bono”.

This is much as my noble and learned friend Lord Goldsmith said.

Barristers are forced to do more last-minute work because solicitors have not sought their own answers to the questions posed by the prosecution evidence and their clients. As a result, it is becoming rarer for the courts to be presented with a fair and complete picture of the case and the system's accuracy is fatally undermined. In turn, the Criminal Cases Review Commission is working with 30% less money on 70% more applications from prisoners to have their cases reviewed. The aspirational goal is that prisoners will serve only three years before having a wrongful conviction overturned. The reality is far longer, as a period of time will pass before we correct our mistakes.

What do these statistics mean for the people who the system is designed to protect and serve? Let me tell your Lordships a little about Mr Jamie Green, a fisherman from the Isle of Wight. Jamie is a prisoner for whom these systemic dysfunctions and delays in the criminal justice system have meant that he has been waiting for more than five years to have what is now clearly a wrongful conviction quashed. As the noble Lord, Lord Dykes, was speaking, the funeral of Jamie's wife of 26 years, Nikki Green, began. Nikki died of cancer last Monday, before her husband could be exonerated and freed. Jamie will have accompanied

[LORD KNIGHT OF WEYMOUTH]

her coffin into the service in Newport in shackles, accompanied by security officers who will return him to prison after the service. Tonight, when we leave this House, Jamie will be contemplating all he has lost, alone in his cell. This is the human cost of trying to do justice on the cheap. Because of underfunding of the system, Jamie could not be there to help his wife through her chemotherapy or try to bring comfort to their children. He could not provide for his family during such trying times. Jamie will never again see his wife alive, as a free man.

Jamie is represented by the Centre for Criminal Appeals, a new non-profit criminal appeals practice established by my friend Emily, which is raising private grant funding and donations to cover the work that legal aid will not pay for and that the commission cannot create time for. The centre estimates that in some cases this is at least 50% of the work needed to prove that a conviction is unsafe to the satisfaction of the Court of Appeal. Every wrongful conviction which the centre gets overturned saves the taxpayer the cost of incarceration—an average cost of £25,000 per year. For every one the guilty party is free and unpunished, but of course this is about so much more than that. How many more people like Jamie and his family must be irrevocably harmed by the cuts to criminal justice funding? As we debate the future of legal aid, we must ensure that the tragedy blighting the Green family is not repeated.

1.03 pm

Lord Cotter (LD): My Lords, there have been so many concerns expressed in recent times about the change in the laws related to our legal system. Nothing should be sacrosanct, but the proposals made have not been well thought out. A recent survey found that only a quarter of the population believes that the UK's legal system is fair and transparent. Two-thirds of those questioned feel that wealth is now a more important factor in gaining access to justice than it used to be.

There is much still to be done to address the genuine, real and justified concerns that the public have. But it is not just the public: legal experts, judges, magistrates and practitioners also share these concerns, so it is welcome that the Justice Secretary has just abandoned, for example, the punitive criminal court charges. However, the damage has been done already through many magistrates of experience—experience which is now lost—resigning in protest at the court charges. We are still left with the massive problem of ensuring that the public are in future to be represented by high-quality legal aid lawyers who are well funded and valued.

During a short debate last month over concerns that the bidding process was faulty, the point was made that because of the process, the future for good legal aid work was and is at risk. Replies at the time from the Government tried, in my opinion, to suggest that a few disgruntled solicitors were protesting because they were not given the work. It was implied that they were just being childish. This was not a lottery—or was it?—but the process should have been carried out professionally. Even at this stage the Government have a duty to re-evaluate the process, which was not

professionally done. We are talking about the obligation to ensure that the general public have the best possible protection for their rights.

We have just celebrated Magna Carta and there is a duty on the Government to ensure that this process of fairness is maintained, so again we are back to process. It is not just imagined that the assessment process was faulty. Insufficient time was allowed to train the assessors and for them to do the actual work. This has been attested by many people who know this and have seen it with their own eyes. Basically, the assessment process was a rushed job and we shall pay for the results in the long run. The Government have to accept that having inexperienced assessors paid low rates may have reduced the cost of this process at the time but that we, the public, will pay much more in the long run. The assessors and the assessment process for anything should be professional, well tested and well run.

Many examples of poor decisions made about appointments for this work, as a result of this poor assessment process, have been given to me. In a longer debate I could give many of those examples, such as high-quality practices with knowledge in serving their local communities quite frequently being ignored. They have not been granted contracts, meaning that those given the work with no local knowledge will be less effective. Again, this has happened on a number of occasions. In regard to the wrong people being appointed I would instance, as I have mentioned previously, the past work carried out by a reputable, professional central London firm which meant that it should have been appointed to do such work in London. But no: it was not given the work. In fact, firms from Stafford, Leicester and Leeds were given that work to do in central London. In itself, that is just ridiculous.

I speak as a member of the public, as others have done, and I stand in awe of the experts. But I also wanted to represent the concerns that the public have about this service in future, as I have mentioned. We have a duty in this Chamber to ensure that changes are made so that the public get the right and fair justice system they need.

1.08 pm

Lord Clinton-Davis (Lab): Some 60 years ago, when I was quite a young solicitor, legal aid was in its infancy. It demonstrated vividly that the law was part and parcel of the reformist drive which was a vital part of our system at that time. Legal aid was relatively inexpensive and brought great relief to so many in civil and criminal cases. That positive scenario remained for many years, and legal aid was a significant element in our welfare state.

Was Britain rendered poorer as a result? Decidedly, it was not. In fact, its reputation was advanced. As the years passed, the character of legal aid changed for the worse. Fewer people were eligible. Today, save in a few complex or extremely long cases, legal aid is no longer an essential part of the fabric of our social services. Of course, the largest firms of solicitors try to fill the void by promoting their own help, which is far better than nothing but does not provide a real answer to the problems we face.

We now have virtually no legal aid, save in a few extensive cases. In other words, legal aid has ceased to

be available to most people. Do we save a great deal as a result? The answer is clearly no. People who should be properly represented are frequently not. Sometimes people in that category advance bogus or irrelevant arguments and they are not entirely to blame as a result. It happens. Trials have become much longer and the courts have to be paid. There has been no adequate inquiry into all this.

What are the Government prepared to do? Will the Minister shed any light on this? I doubt it. In many cases, the result has been disastrous as people who are entitled to legal aid do not get it. The whole profession, Bar and solicitors alike, is despondent, and that is to put it mildly.

1.12 pm

Lord Woolf (CB): My Lords, it is a pleasure to follow the noble Lord, Lord Clinton-Davis. I think we probably went into the legal profession at approximately the same time and have seen the huge transformation that has taken place in it since then. It has grown dramatically. I sometimes think that I entered the legal profession at a very good time as after the war years it was suffering from the fact that people could not afford to employ lawyers and more people were leaving the Bar than were going into it. They were leaving because they just could not make a living, especially if they had recently come out of the forces. Since then, largely thanks to the Legal Aid and Advice Act, the position has been transformed but, as must be clear to everybody in the House, in recent times it has been transformed again. It has changed from a profession that served the public well to one that is unable and not equipped to do so because of a lack of resources.

Having listened to the excellent speeches here, it is clear that this is a critical time for the administration and doing of justice in this country. It is vital that we avoid doing more damage to what was a good system but is at the moment in peril. It is in peril for the reasons that have already been heard in this debate—there is no need to stress them again.

In March 2014, our current Lord Chief Justice launched JUSTICE's new strategy for the courts. He said:

"Some would say that with such dramatic reduction, our system will break. But that cannot be permitted. If it breaks we lose more than courts, tribunals, lawyers and judges. We lose our ability to function as a liberal democracy capable of prospering on the world stage, whilst securing the rule of law and prosperity at home ... Our task is therefore to ensure that we uphold the rule of law by maintaining the fair and impartial administration of justice at a cost the State and litigants are prepared or able to meet. We can only do that by radically examining how we recast the justice system so that it is equally if not more efficient, and able to carry out its constitutional function".

The Lord Chief Justice was taking on the responsibility, as he saw it, for protecting the justice system. That responsibility is not that of the judges' alone; it is also that of Ministers. Indeed, the Lord Chancellor in his oath of office has to swear to do what is necessary in that regard and that is a matter of which he, rightly, should be extremely conscious and not neglect. At this time it is important that we focus on what can be done to make the justice system work more effectively. At least then if resources are not provided, there will be no excuse that they are not being used well. When you

have a system of justice in the state that ours is at present, it will be no easy task to undo the damage that has been done. This damage has not been caused intentionally but is the unforeseen consequence of policies that were thought justified at the time but can perhaps be seen now as to have caused disproportionate damage to our society as well as to the justice system.

We have had two reports recently. One is JUSTICE's report, *Delivering Justice in an Age of Austerity*, and the other is the report of the Low commission. Both set out programmes intended to alleviate the situation. I am conscious that the reforms I made to the system 20 years ago were meant to make it more efficient. They clearly have not achieved what I wished to achieve and there are two reasons for that. First, I designed a system to work with legal aid and we have heard what happened to that. Secondly, we were assured that we would get the IT that was critical to the successful implementation of those reforms. In view of what the Lord Chancellor said recently, I hope that that technology will now be provided. If it is not, we will never be able to achieve the aim which the Lord Chief Justice set out in the passage I quoted.

1.20 pm

Baroness Dean of Thornton-le-Fylde (Lab): My Lords, I thank my noble friend Lord Howarth for obtaining this debate today. It is because he is not a lawyer that I was attracted to take part in what could be regarded, on the margins, as a debate about the technical aspects of law. However, it is not—it goes to the heart of our democracy as it is about the ability of any citizen to have access to justice, irrespective of their standing or their affluence.

The 2013 Act and the policy introduced by the coalition Government resulted in a 28% drop in the Legal Aid Agency's budget at a time when demand was going up. Two years have passed since then. The House of Commons Justice Committee said that those changes have harmed access to justice for some litigants—those who are poorer in our community. That is supported by the National Audit Office, which also criticised the Government for not taking an evidence-based approach to this issue.

My concern in this debate is for those suffering as victims of domestic violence, children and people with disabilities, who are some of those most harmed by the 2013 Act. The Minister may well say that there is exceptional case funding which can be applied for. As my noble friend Lady Mallalieu said, the Ministry of Justice estimated that there would be around 6,000 applicants a year. In fact, of the 1,100-plus applications made, just 3% received exceptional case funding and half of those were in the pipeline before the law was introduced. Exceptional case funding needs reviewing and simplifying on the basis of the evidence that we now have of how the 2013 Act has worked and how it has, in fact, denied access to justice. In the case of families, which I am particularly interested in, there has been real hardship, real denial of access to justice and a real impact of the Act.

There has been a significant drop in mediation. The National Audit Office noted that there was a £20 million underspend on mediation. Restoring funding for initial

[BARONESS DEAN OF THORNTON-LE-FYLDE] advice is estimated to cost around £14 million. That would be neutral in cost terms, but would provide some support for the people I am talking about.

Legal aid is not available at the moment for extended family members seeking to provide homes for children who would otherwise be facing life in local authority care—and what a poor start for our children that provides. The current provisions do not allow family members—for instance, grandparents—to have legal aid support. If it were allowed, it might result in substantial numbers of those children staying within the family and being properly looked after, rather than going into local authority care with all the problems that creates. It is often not only a life blighted but a higher cost to the state.

The amendment of the domestic violence gateway needs real discussion and change. I remember the debates on the Act vividly, although I did not take part because I am not a lawyer. The opposition Benches pleaded with the coalition Government to look at domestic violence and make an exception. Those pleas fell on deaf ears, much to the shame of that coalition Government. Why not allow solicitors and other advisers approved under the legal aid contract as supervisors to have delegated power to confirm that a client is a victim of domestic violence and is therefore entitled to legal aid? I ask the Minister to answer these points when he replies.

The Act has now had time to give us an indication of whether it assists access to justice. We all accept that savings had to be made, but not by penalising those least able to cope. Those who are affluent will always have access to the law. It is the people who do not whom I am concerned about, so I ask the Minister to reply to these points.

In conclusion, as the noble Lord, Lord Cotter, said, this year many of us have been going round saying how proud we are of 800 years of Magna Carta. What a year for such an issue over legal aid. Magna Carta states:

“To no one will we deny or delay ... justice”.

Today, many men, women and children in this country do not have that provision.

1.26 pm

Lord Brown of Eaton-under-Heywood (CB): My Lords, like many other noble Lords here today, over the past three years since LASPO I have taken part in a number of debates about legal aid cuts, several regret Motions and, in January this year, the debate obtained by the noble and learned Lord, Lord Morris of Aberavon, on Her Majesty's Government's assessment of the long-term impact of current levels of funding of the criminal Bar. Those debates were inevitably too late to prevent the succession of cuts that were being made in the availability of legal aid or in the fees being paid to lawyers, but we—certainly I—took part in them in the hope that, if we protested forcefully enough and presented a sufficiently convincing case against them, we might just discourage the department and the Lord Chancellor from yet further savaging the legal aid scheme, stem the tide of cuts, and perhaps even persuade the Lord Chancellor to turn the tide.

I have read in draft the evidence given eight days ago to the Constitution Committee by the Lord Chancellor and I note with some relief his statement that the amount available for legal aid has remained broadly untouched in the recent spending review. Could it be that our past protestations and arguments have persuaded the Lord Chancellor to desist from further depredations, or is it perhaps that we now, at last, have a Lord Chancellor who recognises the needs and strengths of our legal system and the imperative that we do not further put them at risk but, ideally, restore the system to health? To refer again to the recent evidence given by the Lord Chancellor, one notices his concern to,

“improve the quality of advocacy in our courts, safeguard the future of the criminal Bar and make sure that people whose life and liberty is at stake get the best possible representation”.

One could at this stage feed in paragraph 9.12 from Sir Bill Jeffrey's review, *Independent Criminal Advocacy in England and Wales*:

“The particular strengths of the English and Welsh criminal Bar—intellect, expertise, independence, ability to represent both prosecution and defence—may not be unique; but they are a substantial national asset which could not easily (or perhaps at all) be replicated, and they contribute significantly to the high international reputation of our legal system”.

He goes on to worry about the ability under the present system to continue to replenish all that necessary expertise. The criminal Bar is, at the same time, both the most important of all the various specialist Bars and yet sadly the poor relation to all these Bars. It is the most important because, as the Lord Chancellor's recent evidence suggests he recognises, it operates in the area where people's lives and liberty are at stake. Of course there are vast fortunes made at the commercial Bar, the patent Bar, the revenue Bar, the Chancery Bar—all these other specialist Bars—but the outcome of all those disputes is really just a matter of book entries and adjusted balance sheets; seldom are people's day-to-day lives affected, as of course they are profoundly by the outcome of most criminal cases.

Make no mistake about it: the accumulated series of cuts over recent years has had a devastating effect on the criminal Bar. This has been described by the noble and learned Lords, Lord Judge and Lord Woolf, both Lord Chief Justices in their time. I need not rehearse all that again. It is a question of recruitment, of the seed corn for the next generation of criminal specialists—silks, judges, and so forth. Of course, it is not just defendants in need of skilled representation who will suffer from a weak criminal Bar. The efficient conduct of cases in the courts is the linchpin of the administration of justice. Incompetence in the representation of either prosecution or defence inevitably leads to the failure of justice: prolonged delays, wrong verdicts, aborted trials and more appeals—all hugely costly both socially and financially.

Civil justice, too, is much in peril. As the noble Lord, Lord Lester, mentioned, today's column by the noble Lord, Lord Pannick, in the *Times* sets much of that out. Sometimes I wonder whether, if perhaps he wrote weekly rather than fortnightly columns, we could not cancel some of our Thursday debates on the future of the legal aid system. Be that as it may, we must continue to hold the Lord Chancellor as best we may to his stated commitment to access to justice and the rule of law.

1.32 pm

Lord Judd (Lab): My Lords, I warmly congratulate my noble friend Lord Howarth on having secured this debate. I particularly liked the measured and thoughtful effectiveness of his speech, which is so characteristic of his contribution in this House. I also want to put on record how glad I am that my noble friend Lord Bach is replying for this side of the House. He has done fantastic work in recent years—his unflinching commitment is a challenge to us all.

We need more modesty than we usually display when talking about the United Kingdom's record and position in the world on these matters. In my formative years, I faced the reality of the revelation of what was, for example, going on in Hola and in Kenya, which has now come to light.

We would have a much stronger position in the world if we talked about our leading role in the struggle for the emergence of what we see as justice and our commitment to it. In that vital struggle, I also want to put on record how much I admire the legal profession and those courageous members who have certainly led the world in consideration of the issues.

I also think that we must discipline ourselves into thinking more clearly about the difference between law and justice. Justice is what we seek as the principle for a healthy, effective, self-confident society. We constantly repeat that we are seeking to advance the rule of law across the world, but we should be emphasising more heavily that we seek to lead the world in the fight for justice. Law must be judged by how far it advances justice—and how far it does not. If you are considering law, what is the law? What is its validity? What principles is it based upon? Law is not automatically synonymous with justice and we are foolish if we ever forget that.

I became very convinced—even more convinced than I was already—about the importance of justice for the future of humanity during my time as director first of VSO and then of Oxfam. It is not a struggle just within Britain; it is an international issue of which we are a part. Repeatedly in that work, I saw that the real issue was justice. If you were dealing with greedy landowners and land grabbers or if you were dealing with corruption on a massive scale, what people needed was justice. With justice they were able to prosper and tackle the task of their own development. Without it they were so often set back. That must apply in our own society—of course it must. Justice is central to our security, in containing the wickedness of extremism and terrorism, and also in having the healthy, self-confident society to which I referred earlier.

In my young political days, the controversial political figure, Gerald Nabarro, went through a very controversial and long-running saga of what I shall call a “car incident” to which he was central. I thought he was very wise when, at the end of that case, referring to his experience he said that British justice was great for those who could afford to pay for it. Do we want to live in that kind of society? Do we not see the hallmark of the society in which we want to live as one in which everybody has access to justice? I am not against looking at the effectiveness of the institutions that we have for ensuring this. Nor am I against the principle

of cost-effectiveness, because the absence of cost-effectiveness means that it is not effective. Cost-effectiveness is central to effectiveness. That is very different from having the principle that dominates—or has come to be seen to dominate—the argument, which is, “How do we cut the costs of access?” That inevitably advances the reactionary move towards injustice.

1.38 pm

The Earl of Sandwich (CB): My Lords, finding myself properly behind and below a formidable list of speakers, I should first explain why I entered the Chamber. As in previous debates, I remain concerned about the ability of asylum seekers, migrants, trafficked persons and detainees to obtain legal aid following recent cuts and LASPO changes. Our inherited sense of justice, backed up, as we have heard, by the ECHR Article 5, requires that we maintain the status of their claims among all the other priorities facing our legal aid system.

Many lawyers are rightly up in arms about the cutting of legal aid for all kinds of reasons—most rehearsed today. I am glad that the noble Lord, Lord Bach, is leading the review, since it is rightly a major concern of the old and new Labour Party. Family law, domestic violence, poverty and indebtedness all have their claims on public money, and I recognise that asylum and immigration generate a lot of claims and difficulties of interpretation for which exceptional case funding may well not be available. However, asylum, migration and trafficking are way down the list on the GOV.UK website, coming at number nine out of 12 things that you can get legal aid for.

I am aware that these issues are causing the Government more trouble and that the numbers keep going up, but we also have an exceptionally disturbed world, especially when it comes to Syrian refugees. Once they have arrived, we have a clear humanitarian duty to look after them until they are either safely returned home or accepted into our society. Those in limbo between those two alternatives are often detained for long undefined periods in immigration detention centres. I had the opportunity in the past to visit a number of these IRCs, such as Haslar, Campsfield, Oakington, Yarls Wood and Harmondsworth, and little seems to have changed since I was a member of the Independent Asylum Commission some years ago.

A year ago the charity Detention Action quoted detainees' typical comments, such as, “I felt completely helpless”, “I was scared”, “You feel trapped”, and, “The Home Office had turned off my brain for three and a half years”. This is not the time to re-examine the law governing detention centres, the length of detention or the rules and conditions in those centres, though some of us may have that opportunity during the Immigration Bill. I mention them only because many of the inmates who are seeking legal redress, whatever the merits of the Home Office's case against them, are still finding it difficult to get proper representation.

We forget that many detainees are not isolated individuals but have families in this country. An organisation for which I have the highest regard, Bail for Immigration Detainees, in a report entitled *Rough Justice*, recently looked at the cases of 102 parents

[THE EARL OF SANDWICH]
 who had been separated from their children by immigration detention during an 18-month period in 2013-14. They left detention between 1 April 2013 and 30 September 2014. In most cases they were detained pending deportation or removal to countries like Somalia, Iraq and Zimbabwe. Criminal convictions were often triggered by non-violent offences such as theft and false documents. Only half of these parents had current access to a legal representative, most of them to a legal aid solicitor, and 11% had never had access to a legal representative. Some 77% of the detainees who had access had to wait longer than a week to make an appointment, and one in 20 had to wait longer than a month. Fewer than half the detainees who did contact a solicitor were subsequently taken on as a client, and even among the detainees who had legal aid representation, just one in three had a bail application made on their behalf by their legal representative. The survey also revealed details of the 219 children of these detainees. Nearly all of those for whom data were available were born in the UK, and 80% were even British citizens. Most of their parents had therefore lived in the UK for long periods. One in five was deported or removed without their children.

These figures provide a fairly grim picture of a system that the Government claim to be inclusive and accessible. On the present trend of cuts and savings, which many see as inevitable, conditions are likely to get worse and exceptional circumstances are likely to be fewer. Out of 102 detainees surveyed by BID, only two were known to have applied for exceptional case funding, and only one of these was successful after a long court battle, which ties in with what the noble Baroness, Lady Dean, was saying. Having said this, I very much hope that the Minister will contradict me and point out that exceptional cases are not being reduced and that cuts in funding will not affect immigrants and asylum seekers disproportionately.

Noble Lords will know better than me that the Government have acted on at least some of the 2013 JCHR report recommendations. One sentence caught my eye:

“We remain concerned that refugees may be unable to access civil legal aid during their first few months of lawful residence in the UK”.

Given that the gateway programme is considerably expanded owing to the Syrian crisis, will the Minister assure us that the UK’s international obligations will be met and that civil legal aid will be available to all new refugees?

1.45 pm

Lord Marks of Henley-on-Thames (LD): My Lords, I refer the House to my registered interest as a practising barrister. I congratulate the noble Lord, Lord Howarth, on securing this debate and on the very able and moving way in which he opened it. The debate gives us the opportunity to consider ways we might set about trying to restore access to justice to those who have been denied it—those who cannot afford legal representation—thereby underpinning the rule of law.

A commercial lawyer friend of mine, discussing with me this impending debate, pithily described the present situation by saying, “Legal aid is now in a bad

place, isn’t it?”. As we have heard from every single speaker, so it is. We on these Benches do not shirk our share of responsibility for the cuts made in the legal aid budget by LASPO. The coalition made deep cuts to legal aid—cuts made, certainly, in the face of severe financial restraints and the need to cut public expenditure, but none the less damaging for that. They added to the damage and peril caused over decades by successive Governments to a system that was once admired the world over, as my noble friend Lord Lester and the noble and learned Lord, Lord Woolf, and others have pointed out.

There are now many more litigants in person, a point developed by the noble and learned Lord, Lord Goldsmith. The National Audit Office report of last November estimated that the additional cost to the Courts and Tribunal Service of the changes in 2013-14 was £3 million, largely owing to the rise in the number of unrepresented parties. The wider costs to society, though, are far more extensive. Litigants in person mean that cases last longer; they are more often adjourned because evidence is missing; and points of law are missed, and unjust results follow. The Master of the Rolls, Lord Dyson, told the Justice Committee last December that, although no one can prove it, lack of representation leads to litigants in person losing cases that they would have won with a competent lawyer. If that were not so, why would anyone retain a lawyer to represent them at all—and why a good lawyer rather than just any lawyer?

Section 9(2) of LASPO gives the Lord Chancellor the power to modify the list of services within scope. He should review the list now, not in three years’ time, because severe injustices are already glaringly apparent. In particular—the noble Lord, Lord Bach, has assiduously pressed this case—the Lord Chancellor should reconsider the exclusion of legal aid for social welfare cases in First-tier Tribunals. There is a related problem to be addressed: the high success rate of appeals to First-tier Tribunals, well over 50% in the first two quarters of this year, is largely attributable to poor or rushed decisions by officials in the first place. The appeals process should not be an escape route from bad decision-making, and officials should be putting more effort into getting decisions right first time, thereby saving money for their departments and heartache for claimants.

For all the rhetoric about tribunals being less legalistic and simpler to access than courts, social welfare law in particular is complex and difficult to navigate. Points of law arise at every level and claimants need lawyers to argue them. In family cases, generally the old “green form” scheme for official advice on legal aid worked well, and I support the suggestion that the MoJ should consider a similar scheme now. In relationship breakdown cases, the parties need urgent advice on what the legal processes involve, how they should deal with issues relating to children, money and property, and where to go for help. An early professional overview can help avoid later conflict, which is often the result of ignorance and misunderstanding.

I also agree that the domestic violence provisions have not worked well. There is a very low take-up of the legal aid that is, in principle, available. Genuine victims are often unable to obtain the evidence required

to demonstrate that they qualify. I agree with the Law Society's suggestion, pressed today by the noble Baroness, Lady Dean, that solicitors themselves should be able to certify a client or potential client as a victim of domestic violence so as to qualify for legal aid, without that victim having to jump through difficult hoops to establish eligibility.

Exceptional case funding under Section 10 has also had a very low take-up—the noble Baroness, Lady Mallalieu, gave us the figures. The Law Society has called for those lacking the capacity to represent themselves to qualify automatically as exceptional cases. That may go too far because cases turn on other considerations as well—their nature, merits, what is at stake, financial circumstances and the availability of alternative assistance. However, it is intrinsically offensive that people without the capacity to present their cases have important issues about their futures decided in proceedings which they cannot comprehend without representation or advice. Will the Government at least trial a system whereby a legal aid solicitor could certify that a potential client meets the test for exceptional case funding for lack of capacity alone? I also commend the noble Lord, Lord Low, and the Low commission for the valuable work they have done in shining a light on how a network system of legal advice and support can help relieve the strain on the legal aid budget.

Turning to criminal legal aid, the criminal Bar and criminal solicitors are demoralised. The judiciary rightly complain that standards of criminal representation have fallen—the result of progressive cuts in legal aid and in fees. I have repeatedly argued the case for making savings by increased efficiency, rather than by making criminal practice uneconomic. The Government accept the thrust of the Leveson review's recommendations on efficiency. At a time of falling crime it should be possible to reduce costs by better case management, continuity of decision-making, efficient charging decisions and better use of technology. Making the system work better involves retaining motivated and high-quality professionals. Continual cuts to criminal fees just drive the best lawyers out of the profession or into other areas of work, as the noble and learned Lords, Lord Judge and Lord Brown of Eaton-under-Heywood, have said so eloquently.

I have also repeatedly suggested saving costs by two measures we proposed in our manifesto. The first is allowing restrained funds to be used to meet legal costs, as is standard in civil cases with freezing orders, rather than paying those costs on legal aid. The second is requiring large companies to carry insurance against the cost of defending prosecutions for fraud. Those two measures would save a great deal of the money currently spent on the disproportionately expensive, very high cost cases. To date, we have had the unreasoned response that the Government have no such plans.

I cannot leave this debate without saying a word or two about procurement. The process of tendering for the duty solicitor contracts this autumn, mentioned by my noble friend Lord Cotter, has clearly been chaotic, as revealed by the two whistleblowers who graphically described how untrained temporary staff were put under unreasonable time pressure to assess bids for the new contracts. When I raised this issue on 24 November, we were told that while some solicitors

might be disappointed by the outcome of the process, the MoJ was satisfied that it was fair. I can quite see that, in view of more than 100 procurement challenges and a judicial review application for which permission has now been granted, the department would wish at this stage to stonewall. However, a thorough and fair procurement system is essential if the professions are to have any confidence that a contract system is efficiently run.

Legal aid lawyers have a right to that consideration. Theirs is not just a job, not even just a profession, but a vocation. They are not paid a great deal. They work very long hours. They deal patiently with the most demanding of clients, who are often the least able to understand the predicaments they face and the advice they receive. In mixed practices, they have to face the constant scepticism of partners who are undertaking more remunerative work. On top of that, they get very little public recognition for the work they do. They undertake it because they have a passionate belief in the right of everyone to have access to justice under the law. In Michael Gove we now have a new Secretary of State who, as other noble Lords have said, appears prepared to listen and to care about access to justice. I know the noble Lord does too. I hope his response to this debate will demonstrate that he and his department understand that legal aid lawyers and all their clients—actual and potential—deserve a better deal.

1.55 pm

Lord Bach (Lab): My Lords, I start by thanking all noble Lords who have taken part in this debate. It has been an excellent debate, which is hardly surprising given the stellar cast list. I am particularly grateful to my noble friend Lord Howarth of Newport for agreeing to open the debate. My Front Bench responsibilities mean I have to wind up for the Opposition. I am sure the House will agree that the noble Lord, Lord Howarth, did a superb job.

Rather unusually, I thank someone who has not taken part: the noble Lord, Lord Pannick. He, as the noble Lord, Lord Lester, reminded us, devoted his column in today's *Times* to this debate. What he has to say about the Government's conduct over the past few years and—as importantly—his suggestions about the future of legal aid are, as the House would expect, extremely clear and telling. If I have one regret about the debate it is that, apart from the excellent Minister, the noble Lord, Lord Faulks, there will be no one speaking from the government Benches today. It makes us regret even more than normal the absence of the late Lord Newton of Braintree, who used to be such an important part of these debates.

The subject of today's debate is the future of legal aid. In instigating the debate, I thought it well past time for this House, with its obvious expertise in this field, to discuss once again this vital issue. I confess I also had another purpose. Noble Lords will know now that the new leader of the Labour Party, Jeremy Corbyn, has asked me to lead a review into the future of legal aid under the auspices of the noble and learned Lord, Lord Falconer of Thoroton, the shadow Lord Chancellor. Mr Corbyn is, I believe, the first leader of a political party in this country really to understand legal aid and its importance, not just in

[LORD BACH]

our legal system but for the type of country we want to be. In my view, it is well past time that a major political party undertook such a review. This is not because there has been a lack of excellent work done in this field. I have only to mention the three reports from the Low commission—and it was very good to hear the noble Lord, Lord Low, today—the Legal Aid Practitioners Group, Justice and many more. A political party that hopes to win power needs a robust, thought-through policy that is credible, practical and principled. What better way to ensure the review's success than to canvass the views of this House and listen to its analysis of where legal aid is now and what should be done in the future to ensure it plays its proper role? We are in the process of asking people to sit on a commission that will advise on the way legal aid should go. When the make-up of the commission is announced—shortly, I hope—it will be clear that its members have been chosen not for their political views but for their expertise in a wide variety of law, lawyers and non-lawyers alike.

What approach will we adopt? We hope to be inclusive; we will collaborate with the considerable and well-evidenced work and ideas that have already been developed; and we will not be afraid of innovation. We all have to look for new approaches—as has been said, many may involve the new technology—to meet the huge unmet needs that exist. Finally, we will do our best to try to stem the decline which there clearly has been and which exists in our justice system at the moment. It is a critical time, as the noble and learned Lord, Lord Woolf, reminded us. Poorly thought-out reforms, many of them not evidence-based, have begun to affect the reputation that our legal system enjoys. If access to justice becomes no more than a theoretical right but is in fact denied to many, then, as has been pointed out by the senior judiciary, the rule of law itself is put at risk.

It sometimes seems that everyone in the world except the Ministry of Justice knows that LASPO has had a profound and debilitating effect on access to justice. Having removed, in such an unthinking way, so much from the scope of legal aid—so much family law and nearly all social welfare law—it is hardly surprising that litigants in person flood the family courts. In the area of social welfare law, many people—very largely the poor and the vulnerable—are no longer able to receive even advice.

It is perhaps just worth repeating the shocking statistic that, whereas in 2009-10 there were 471,000 advice and assistance new matter starts, by 2013-14—just four years later at the end of the first year of LASPO's implementation—that figure had fallen to 52,000, a drop of nearly 90%. To put that in human terms, it represents hundreds of thousands of our fellow citizens who only a few years ago could get legal advice and now are not able to. It is almost beyond belief but the figures show it to be true.

In the field of criminal legal aid, which I will not have time to go into today, we have heard some passionate and very well-made speeches from all sides of this Chamber. I thank the noble Lords who have spoken about the real crisis that there undoubtedly is in the criminal system.

There were many decades when a broad consensus between the political parties helped to develop legal aid as an essential part of the social security system that every citizen was entitled to in a civilised country such as the United Kingdom. Sadly, that consensus has broken down to some extent, particularly in the last few years. I argue that the reason for that is largely, although not completely, the administrative and legislative action of the coalition Government. I was very grateful for what the noble Lord, Lord Marks, said a few minutes ago about that.

If there is one thing that I would like to see arise from the review that I am undertaking, it is the possibility of a return to that consensus. One hopes that it would be about the principles set out so well by the Young Legal Aid Lawyers—a very impressive group—in its briefing note:

“Equal access to justice for all irrespective of wealth should be the absolute core principle of our legal aid system. We believe that the cost of legal aid should be met by the state through general taxation. We believe that access to justice is a public good”—

I emphasise the words “a public good”—

“that should be classed by government in the same category as the rights to healthcare and education”.

These are principles that should unite us all, and I believe in principle that they do. However, if I may say so to the Minister, whose remarks I look forward to hearing, a good start would be for Her Majesty's Government to think urgently about undoing some of the damage they have caused.

2.05 pm

The Minister of State, Ministry of Justice (Lord Faulks) (Con): My Lords, this has been an excellent debate, with significant contributions from a number of noble Lords, covering not just legal aid but our system of justice as a whole. I am afraid that in the time available to me I will not be able to cover all the issues but I will, I hope, at least respond to a number of the points that have been particularly highlighted.

I begin by joining in the tributes to the noble Lord, Lord Howarth, for introducing this debate so well. This is not the first time that he has decorated the House in debates of this nature. His knowledge is considerable and he approaches the subject with great passion.

I also join the noble Lord, Lord Bach, in expressing my, and the Government's, commitment to the principles of maintaining and ensuring access to justice. I wish him and his colleagues good fortune and wisdom in their approach to their significant task, and we look forward to hearing the results of their endeavours. Of course, the Ministry of Justice remains receptive to all constructive and innovative ideas which can assist in providing access to justice. The noble Lord indicated the nature of those who might be joining him on that commission. I hope that he will also include members of the public and taxpayers, who may not have quite the same identity of interest as those with legal experience in this issue. I hope also that there will be no shirking from an analysis of the cost of any proposals, because it is vital that one does not consider these matters in the abstract. If, for example, the suggestion is that the Government—whatever Government—should spend £1 billion more on access to justice, that should be identified.

The noble Lord, Lord Marks, made a number of suggestions about improving access which did not restrict themselves entirely to simply increasing the cost of legal aid. Of course, they are all valuable, and indeed some of them were foreshadowed in the Liberal Democrat manifesto.

The LASPO changes were fundamental. They reduced the cost of legal aid from more than £2 billion to £1.6 billion a year—a significant reduction. Inevitably, some results will have been certainly less than optimal. However, the Government consider that legal aid remains a vital element in our justice system and, although these comparisons are difficult because of the different nature of justice systems, we believe that we have a generous system at £1.6 billion a year.

The challenges that the coalition Government faced when they came into power were considerable and, in their view, it was necessary to reduce the amount of spending. The country's finances have, to a significant extent, been put back on course, although there is still a great deal to be done in that connection. We remain of the view that, if possible, cases should be diverted away from court and court proceedings, and sometimes away from lawyers, where suitable alternatives are available, and that court, although an important and indeed vital part of a civilised society, should be the last resort rather than the first. We do not shirk from the fact that we think that those who benefit from the civil legal aid scheme should have a strong connection to the United Kingdom. That is why we remain committed to the residence test and are now planning the next steps following the success of the Government in the challenge in the Court of Appeal. We welcome a great deal of the work done by the noble Lord, Lord Low, in his reports. They are of great assistance to policymakers, as I hope I have acknowledged in the past; I continue to do so. We recognise the importance of advice being available in all sorts of contexts.

Criminal legal aid has undoubtedly suffered in terms of remuneration for lawyers. The Government are well aware of the concerns expressed by the noble and learned Lord, Lord Judge, about the possible damage to careers and the prospect, in due course, of a reduction in the quality of criminal judges. I acknowledge that. In fact, there is no reduction in the availability of legal aid to defendants, but I think the issue was that the career structure is so unattractive that this will diminish in the long term the quality of those involved in what is, I agree with the noble and learned Lord, Lord Brown, probably the most important part of the legal system. However, the Bar cannot be entirely immune from the need to reduce legal aid expenditure, but the Government remain committed to maintaining a vibrant and independent Bar and decided in June 2015 not to proceed with the planned reduction in advocacy fees, as we made clear in a Written Ministerial Statement.

Changes in the criminal process, which were heralded by the report from Lord Justice Leveson and the observations by Sir Bill Jeffrey, will, I hope, result in greater efficiency and a reduction in the costs of court processes generally, without diminishing in any way—enhancing, indeed—what we recognise as criminal justice. As for civil legal aid, the result of LASPO has undoubtedly been an increase in the number of litigants

in person, but litigants in person have always been a feature, to some extent, of the legal system. The question of employment tribunal fees was specifically raised by the noble Lord, Lord Low. A review of employment tribunal fees was announced in June last year and will be published in due course. It will consider how effective the introduction of the fees has been in meeting what was the original objective, which was to deter inappropriate and frivolous claims. It is important that those who have genuine disputes should be able to bring them to court.

The noble Baroness, Lady Dean, and the noble Earl, Lord Sandwich, mentioned the question of exceptional funding. Over time, the Legal Aid Agency has, in fact, granted ever more applications for exceptional funding. In fact, these have increased every quarter. I accept that the forms were originally probably less than clear: they have been changed. In the most recent quarter for which we have data there was a grant rate of 35%, a considerable increase on the figure mentioned by the noble Baroness and the highest number since the scheme began. Mr Justice Collins decided that the existing scheme as it was administered was unlawful; that is subject to appeal. However, in the mean time the Government brought forward a statutory instrument to amend the provisions, which makes it much easier to obtain exceptional funding.

The main burden of the debate could be said to be that it is time the Government looked again at the fall-out from LASPO. We committed to look at those results within three to five years. Noble Lords may be aware of what the Permanent Secretary at the Ministry of Justice said to the Justice Committee on Tuesday 13 October, which was that we were enjoined to do a post-implementation review of LASPO and that we would do it at the front end of the period rather than the latter end. Discussions are going on as to whether to run the various reviews together.

He also wrote to tell the committee about three projects being undertaken in respect of civil legal aid. One, Varying Paths to Justice, was a large-scale qualitative research project examining how people seek to resolve civil, administrative and family justice problems. The second, a survey of not-for-profit legal advice providers in England and Wales, will provide an indication of how advice providers in the sector have been affected by legal aid—a number of noble Lords mentioned the importance of the not-for-profit sector; I entirely accept that. The third is the initial findings from the legal problems resolution survey on the prevalence of civil justice problems in England and Wales, which will be published early in 2016.

I hope that we will be able to provide a response—assisted, no doubt, by the commission of the noble Lord, Lord Bach, although the timings may not precisely coincide—to some of the matters that have arisen from LASPO. The purpose of LASPO was, of course, to reduce the cost of legal aid and to try to focus legal aid where it was most needed, in the most important cases. The noble Lord, Lord Bach, has been a consistent critic of the effect of the lack of legal aid in social welfare cases and I understand this concern, but I think he and the House would agree that not all problems that come from social welfare difficulties—

[LORD FAULKS]

particularly debt, for example—are best approached by lawyers. That is not to undervalue the lawyers' contribution, but lawyers, at whatever hourly rate they charge, may not be the best people to sort out, for example, the many debt problems that beset those people who have social welfare problems.

A number of noble Lords mentioned the question of the process for solicitors' legal aid contracts. There was criticism from the noble Lords, Lord Marks and Lord Cotter, of the whole process by which such contracts are obtained. This process is the subject both of litigation in respect of the procurement process itself and also judicial review in respect of those contracts. It would not be appropriate for me to go into much detail about that, save to say that the Ministry of Justice, as I have said previously from this Dispatch Box, is satisfied that the process was fair and will maintain that in court. The noble Lord, Lord Cotter, returned to an issue he has raised in this House before about a geographical problem with solicitors being outside of a necessary area. I can tell him and the House that bidders would be required to have, or commit to have, an office in the relevant area where the work was delivered. That would be a matter taken into account.

The Law Society acknowledged that there was a need for some consolidation. Fortunately, the crime rate has dropped and the process was undertaken in a way that we think was appropriate to make sure that taxpayers' money was well spent but that, nevertheless, there could be access to the duty solicitor scheme. Of course, solicitors will still be able to have the own-client system and they will be able to provide, as agency providers, services that they have hitherto provided.

Litigants in person are undoubtedly a feature of the current system, but a number of initiatives have been undertaken; and not simply pro bono, although I entirely endorse the importance of the pro bono sector and the valuable work done by solicitors and barristers in this connection. There is support taking place across England and Wales; for example, the LawWorks clinics network, which provides a local face-to-face and telephone advice service for litigants in person, predominantly in the area of social welfare law. The network has continued to grow and has 220 legal advice clinics in England and Wales, supported by volunteer solicitors, barristers, trainees and law students. That is just one example of the strategy in action across England and Wales to support litigants in person. There is also a national campaign launched this autumn to raise awareness of the help available to litigants. Postcards and posters will be distributed widely.

The strategy is not of course the only answer. There are numerous schemes going on nationally and also at a local level. I heard about some of these developments at the Civil Justice Council's fourth National Forum on Access to Justice for Litigants in Person, which I attended last Friday. It was well attended by representatives from across the justice system and I was struck by the level of expertise, experience and enthusiasm shown by delegates to maintain the momentum that has been building for litigants in person.

Much has been done in this process. A simple rule change—rule 3.1A—is helping in this regard. The noble and learned Lord, Lord Woolf, was unfair to himself in suggesting that the CPR had not been a total success. In many ways it improved a great deal the system which prevailed under the rules of the Supreme Court—the predecessor of the civil procedure rule. With respect, he is right that it has not prevented disputes being very expensive. Certainly, the reforms that we intend to bring forward in our civil justice system, using the increasing availability of technology and reducing the number of court hearings, will build on those reforms. Rule 3.1A, on “case management—unrepresented parties” will encourage judges when dealing with litigants in person to use language and a way of dealing with them which is wholly different from the way it was used before. Simple illustrations were given at the meeting to which I went that the terminology is mysterious. What is an appellant? What is a respondent? Ordinary language will help. In the new climate that we live in it was encouraging to see so many judges attending this civil justice forum who deal with litigants—

Lord Woolf: I am very grateful for the comments made by the noble Lord. What about Latin?

Lord Faulks: We are very much discouraged from using Latin in any context now, although I do not know whether the noble and learned Lord would agree that it is remarkable that when you are told not to use Latin, it becomes almost irresistible to use it and somehow will only serve as the correct way. It is very much a thing of the past, I think.

Lord Lester of Herne Hill: In deference to the noble and learned Lord, Lord Woolf, will the Government reinstate the word “writ” instead of claim form?

Lord Faulks: I share the noble Lord's dislike of that expression but I cannot give any commitment at the Dispatch Box on that matter.

Mediation is not, I entirely accept, a panacea but the Government have done a great deal of work on mediation. It is clear that the courts need to be concerned with most decisions of great importance but we need to encourage mediation. We have taken a number of steps to promote family mediation and its benefits. From April last year the Children and Families Act 2014 made it a legal requirement that anyone considering applying to court for an order about their children or finances must first attend a mediation, information and assessment meeting, unless exemptions such as domestic abuse apply. On domestic abuse, we have changed twice the evidence requirement, to make it easier for legal aid to be obtained for domestic abuse.

From November last year we fund the first single session of mediation in all cases where one of the people involved is already legally aided. In this scenario both participants will be funded for MIAM and the first session of mediation. So, I am pleased to share with the House that the number of people starting legally aided family mediation has increased over the last year and is at its highest volume since April to June 2013.

Legal aid remains a vital part of the system. It was brought in by the Attlee Government post-war and remained part of a significant improvement to social justice. This Government do not want to abandon legal aid. We are, of course, suffering under financial constraints but that does not mean that we should not be directing our attention to ensure that access to justice can be obtained, partly by legal aid and partly by improving our justice system in the various ways touched on in the course of this debate.

The Ministry of Justice remains open, as I hope has been indicated by the Lord Chancellor's response to one or two areas, which may be characterised as U-turns or, more properly, further consideration. I do not consider the capacity to change course to be a weakness and I hope that noble Lords will agree about that. The lessons that we learn from LASPO will, I hope, inform policy-making. We remain under significant financial constraints. However, there is no reason to abandon our commitment to access to justice. I am grateful to all noble Lords, all of whom I know share the Government's commitment, for bringing these matters to the attention of the Government and to the House.

2.26 pm

Lord Howarth of Newport: My Lords, I add my thanks to the thanks just now expressed by the Minister to all noble Lords who have spoken in the debate. Without exception, noble Lords have spoken with deep feeling about the problems of access to justice that have been intensified in consequence of the LASPO legislation. Some strong language has been used but, I think in these circumstances, very justifiably.

The debate has been informed by deep experience. My noble friend Lady Mallalieu spoke of her 40 years' experience as a legal aid lawyer; my noble friend Lord Clinton-Davis capped that by referring to his 60 years of experience; and then the noble and learned Lord, Lord Woolf, said that he, too, had come into the law at about that same time. Of course, that was an exceptional vintage.

We also had the very important and eloquent contribution of a former Law Lord, the noble and learned Lord, Lord Brown of Eaton-under-Heywood. As my noble friend said, we miss the expertise of the noble Lord, Lord Pannick, but he finds his ways to share that with us. Many noble Lords spoke of the pride that historically we have had in our system of justice. The noble Lord, Lord Lester, and my noble friend Lady Dean were eloquent on that. Amidst all this wealth of expertise and profound experience, I was glad to be joined by at least a handful of amateurs, to use the term used by the noble Lord, Lord Dykes, to characterise those of us who have the misfortune—or possibly the fortune—not to be lawyers.

My noble friend Lord Judd reminded us that justice is at the heart of so many different policy issues, and other noble Lords were specific about areas of present injustice about which they are deeply concerned, such as domestic violence and the predicament of disabled people. The noble Earl, Lord Sandwich, spoke of the plight of asylum seekers, trafficked people and Syrian refugees to come, who will need to be able to obtain justice. My noble and learned friend Lord Goldsmith

spoke about the disproportionate effect of many of the changes that have taken place on the predicament of women. My noble friend Lord Knight of Weymouth spoke with particular eloquence and passion about some cases that he has studied. I wish him well—and his friend Emily very well indeed—in the work that they are doing in their part of the country. He spoke, quite rightly, of the human cost of doing justice on the cheap.

A number of suggestions for reform were made. The noble Lords, Lord Cotter and Lord Marks of Henley-on-Thames, discussed procurement. The noble Lord, Lord Marks, also drew attention to the Leveson reforms, and the noble and learned Lord, Lord Brown, referred to the recommendations of Sir Bill Jeffrey. The noble Lord, Lord Low, was able to draw from the depth of his experience in chairing the commission that he has chaired in successive instances, and his ideas for a better network to enable the availability of justice are important and should be heeded. I think that after 50 years, the noble Lord, Lord Low, is entitled to submit the three volumes that his commission has published, plus the text of his speech today, for his PhD. It is time he gained it.

Many noble Lords spoke of their admiration for the legal profession. My noble friend Lord Judd made that point strongly. My noble and learned friend Lord Goldsmith spoke with pride about the Bar Pro Bono Unit, which he founded. We should all take this opportunity to thank so many members of the legal profession—indeed all of them, I would like to think—who, whether paid or unpaid, are dedicated to ensuring that justice is in truth and in reality available.

There was considerable discussion about the current state of the legal profession and of the courts. There was pretty well a consensus that there are very serious problems at the criminal Bar. The noble and learned Lord, Lord Judge, talked of a brain drain happening at present, as people leave the criminal Bar. The noble and learned Lord, Lord Brown, underscored that point in this most crucial area of legal practice. There is a crisis. My noble friend Lady Mallalieu told us of lawyers who earn less for their brief than the cost of the train fare to court. Clearly, if that is the case, the system is not sustainable.

The noble Lord, Lord Lester, helpfully introduced into the debate the issues of exceptional case funding and the fall in the incidence of mediation. The Minister, in his reply, accepted that those were indeed issues. The noble and learned Lord, Lord Woolf, said that it was a critical time for the administration of justice, and it would be no easy task to undo the damage that has been done. There was also some valuable discussion of the case of LIPs—litigants in person.

I want to add my personal tribute to my noble friend Lord Bach, because the scrutiny he led of the LASPO legislation and its subsequent emanations has been wholly admirable, and I have found him persuasive—at every point, I think. I wish him well in the work of the review that the leader of the Labour Party, Jeremy Corbyn, has asked him to undertake, and I indeed hope that we can move towards a consensus.

I also thank the noble Lord, Lord Faulks, the Minister, for the generosity of his remarks, the tone of his speech, and his willingness to acknowledge that

[LORD HOWARTH OF NEWPORT]
 there are lessons to be learned from LASPO, and that all is indeed not well. He spoke about various issues on which he and his colleagues in the Ministry of Justice are at present working. He also wished my noble friend well in his work on the commission. I hope that he and the Government will be assisted by my noble friend's work, and that we shall achieve the consensus that we all desire.

Motion agreed.

Conflicts and Violence: Religion

Question for Short Debate

2.32 pm

Asked by Baroness Berridge

To ask Her Majesty's Government what steps they plan to take to tackle the rise in religiously-identified conflicts and violence, in the light of the recent visit by Pope Francis to the Central African Republic.

Baroness Berridge (Con): My Lords, I am extremely grateful to all noble Lords who will speak in this afternoon's debate, as the Central African Republic is not a well-known country and does not get the attention its people deserve. Also, I accept that the global trend referred to in the title of the debate reads rather like a question for a PhD thesis, or at the very least the title of a book by the noble Lord, Lord Sacks, *Not in God's Name*, which I commend for your Christmas present list.

Only 12 years ago the Prime Minister's communications director said, "We don't do God", which was taken to mean nowhere at all, domestically or abroad—rather unfairly taking it out of context. The context was an interview about the Iraq war: sadly, events have shown that talking God should have been left in the script. If we were to track today the frequency with which the words "theology" or "religion" are being used by UK politicians and media outlets, we would see that this is the time of renaissance. "Renaissance" is the right word—lest we forget that we did do a lot of this kind of violence in this country's past. I am sure that media commentators in Tudor times would not have found this topic at all out of the ordinary—although they would not have used "religion" or "secular" in this context, those being post-Enlightenment terms.

The secularisation thesis propounded by the likes of Peter Berger in the 1960s was, by his own humble admission in 1999, "essentially mistaken". The world at the end of the 20th century got seriously more religious, and religious people are not huddled in a corner, oddly out of step with the modern world. Today 84% of the world's population profess a religious faith—and not just a "tick-box on the census" type faith. The world has got more religious, more devout, and that is the predicted future trend. In 2010, 16% of the population was unaffiliated to a religion, and Pew research predicts that by 2050 this will fall to 13%. We here reside in what is now termed "western European exceptionalism", which requires from us a degree of caution when we look out from this window at today's complex world. Another relevant, potentially infamous,

theory—Huntington's clash of civilisations—has been robustly critiqued, but I think we are left with the awareness that it is not only land, political power and scarce resources that can lead to conflict, but values, ideas and identities, some of which are of course religious.

As co-chair of the All-Party Parliamentary Group on International Freedom of Religion or Belief, I have read of rising violence against atheists in Bangladesh, Shia and Ahmadiyya Muslims in Pakistan, Yazidis in Iraq, Muslims who speak out against Boko Haram in Nigeria, Baha'is in Iran, and Christians in all those countries, save potentially Bangladesh. That violence is often mob violence with the state turning a blind eye, but most cases are at the very least identified as religious, and it is hard to deny the religious motivation behind much of that persecution.

In addition to mob violence, religion is documented as a factor in many civil wars. The empirical analysis in *God's Century* by Toft, Philpott and Shah—another book for the Christmas list—is that, between 1940 and 2010, of 135 civil wars 44 were religious. As of 2010, 50% of the 16 ongoing civil wars had a religious basis—up from 22% of civil wars in the 1960s. They assert that religious civil wars tend to last longer and kill more people, and make it harder to achieve a sustained peace. However, perhaps the most dangerous element is that religion is a transnational phenomenon, so these wars are more susceptible to spreading from their home territory or attracting foreign fighters.

There is also a rise in global religious-based terrorism: it existed in about 20% of countries in 2012—up from 9% of countries in 2007. This can be found in every major religious tradition. Mark Juergensmeyer's analysis of the motivations behind Timothy McVeigh, the Oklahoma City federal building bomber, is sobering reading for any Christian thinking that our involvement is a thing of the past.

The danger in this debate, as outlined by the UN special rapporteur on freedom of religion or belief, Heiner Bielerfeldt, is to go to the extremes. One extreme is to ignore religion completely as a motivating factor in violence and always to explain violence in terms of land, scarce resources or political power—causes we are much more comfortable talking about. For instance, race alone seems more amenable for us to talk about in relation to the violence against the Rohingyas in Burma. It is a complex matter, but their Muslim faith in that Buddhist-majority country should not be discounted.

The other extreme is blaming religion too quickly, and excusing the human agency and responsibility that is the ultimate cause of all violence: ideas and theology cannot kill, people do. But if religion is a factor in conflict, terrorism and persecution, it may also be a factor in establishing the peace. This seems to be the season of requests for increased religious literacy training for journalists, politicians and civil servants. I note the report by the commission recently chaired by the noble and learned Baroness, Lady Butler-Sloss.

The issues that I have outlined are some of the most complex and context-specific issues that we have to consider; there are few soundbites but much nuance. The Foreign and Commonwealth Office led the way in

the last Government with seminars on world religions, but can the Minister outline what training in the complexities of ethno-religious violence and conflicts is being run either in the FCO or through the conflict stabilisation unit?

The words of the title of this debate were carefully chosen, because the history of the Central African Republic is not one of religiously motivated or identified conflict; it is only in the last three years that this has become an accurate description. The Central African Republic's population has now divided along religious lines, with Seleka rebels seen as the Muslim protection force and Anti-balaka their Christian equivalent. Most of the Muslims have fled to southern Chad and Cameroon, and there is now a full peacekeeping operation with 10,000 troops, along with 900 French soldiers.

Britain is in a leadership role. Britain is a permanent member of the United Nations Security Council and in this financial year will contribute £33 million to the UN peacekeeping operation, in addition to anything from our aid budget. The key input for the United Kingdom to support our contribution must be the focus on disarmament, demobilisation and reintegration of the armed militia, especially the child soldiers, who number somewhere in the region of 8,000 to 10,000.

Since 50% of DfID's budget is now to be aimed at fragile states, CAR's DDR programme must be a priority for funding. There will not be a lasting peace there without it. I was told in answer to a Written Question I posed that just under £18.5 million is budgeted for DDR in MINUSCA's budget—that is the UN peacekeeping operation. But “budgeted” does not necessarily mean the same as “funded”. If the UK were to put in, say, £5 million, many countries would follow suit, as it seems would the World Bank. Will my noble friend the Minister please outline how much of the DDR budget is funded and specifically request DfID to look at additional funds?

As vital as the UN peacekeepers are—some have died in the Central African Republic, and the French have lost four troops as well—I have learned that this operation is different in capacity and expertise from a NATO-led operation or a British troop-led operation. The five military staff officers that the UK puts into the UN peacekeeping force in the Congo are making a huge difference in providing specific skills, mentoring others, sharing skills and imparting knowledge. The UK could make a vital contribution to MINUSCA in CAR in that respect. I ask my noble friend to make that specific request to the Ministry of Defence.

The Pope's bravery in going to a war zone cannot be overestimated. Seeing him in his open jeep while the media were in armed convoy was inspiring. This beautiful country, the size of France and Belgium put together, with some of the most fertile land in the world and a population of only 4.5 million to sustain, is—as I have mentioned before in your Lordships' House—in the category of “doable” in international terms. Only the Pope's profile made CAR topical for the criteria to obtain today's debate. My fear is that it will return to being topical when young, unoccupied, angry men, currently refugees in southern Chad, turn up in IS. I will welcome being proved wrong by a little more support from the UK.

2.42 pm

Baroness Kinnock of Holyhead (Lab): My Lords, at the outset I thank the noble Baroness, Lady Berridge, for her excellent introduction to the issues that we are discussing, and for her constant support and interest in her concerns.

After a referendum on 13 December on a new constitution, a general election is scheduled in the Central African Republic for later in the month. It is a country which has endured political instability and, as we have just heard, episodes of extreme violence since its independence in 1960. The most recent turmoil erupted in March 2013 when the Seleka Muslim rebels overthrew the president. Sectarian warfare took place between Seleka Muslims and the Christian Anti-balaka groups. That has generated the most violent instability that we have seen and it has lasted ever since. In these conditions, the hope is that constitutional change and elections can at last produce a Government who can restore peace and order and pave the way for the exit of the UN and French peacekeepers.

The deeply sad reality, however, is that the legacy and current prevalence of severe and savage instability in the CAR means that the prospect of such progress is just not feasible. More than 5,000 people have died in fighting between Muslims and Christians. This assessment is based on a count of bodies and of numbers gathered from survivors, priests, imams and aid workers in more than 50 of the most affected communities. The miserable suffering of the people of the CAR goes on and some 20% of the population are now internally displaced or forced to flee to neighbouring countries. In the north and the east there are no hospitals, schools or roads. In the capital, criminals continue to stoke the tension and insecurity, which plainly serves to exacerbate the already desperate situation.

The Central African Republic has one of the worst economic and human development records in the world. Life expectancy there is 50. Only 30% of people have access to drinkable water. Some 10% have electricity; 5% have sanitation. Against that background, and in an effort to deal with the crisis, a constitutional referendum is now planned and a two-stage presidential election is scheduled for late December and January.

Is it not of some concern, despite warnings by the Electoral Commission and civil society that more time is really needed, that the decision to hold an election before the end of the year has still been taken? Surely the international community should now be working to avoid holding a hurried election, which at this stage would serve only to fuel the already difficult prevailing instability in that country. Is it not relevant that an independent and respected African think tank has said that the CAR will not be able to manage anything approaching a free and fair election because there simply is not the ability to provide security, or to guarantee that all eligible voters will actually be on the electoral roll at all?

With such dependable evidence available, does the Minister agree that there is a strong case for a delay until later in 2016 so that elections can be held in a more peaceful climate and with greater possibilities of coherent electoral organisation? Is that case for delay not made even more emphatic when it is painfully

[BARONESS KINNOCK OF HOLYHEAD]

clear that the disarmament, demobilisation and reintegration process agreed in May is now very seriously off track; when there is a patent lack of political will and commitment among armed groups and the CAR political elites; and when continuing criminality and intercommunal violence mean that the electoral process could not be effectively managed? If the Minister does not agree with this assessment of the situation, could we please be told why?

Surely there has to be local ownership of the electoral process. The people affected must be respected and their views must, of course, be listened to. More has to be done to achieve those basics before rushing into an ill prepared election. The electoral budget needs to be finalised and the process for selection of candidates in legislative and presidential elections agreed. As we in this Chamber know, these are huge tasks that will take a great deal of time. In addition, there are other substantial obstacles, including insecure voting facilities and the very large number of displaced people. All those issues need to be addressed and resolved in what is a very short timescale. Does not the call now have to be for efforts to encourage reconciliation between communities and for international attention to the tragically chaotic situation in the Central African Republic?

The situation is indeed appalling. The international community must obviously remain engaged to offer support to those enduring a cycle of the most terrible conflict. In doing that, it is essential that a shambolic election is not inflicted on a country already bearing the economic and political burdens of deep poverty and unceasing violence.

2.48 pm

Lord Patten (Con): My Lords, if only we had the capacity in this country to do all the things that my noble friend Lady Berridge wishes to see done in the Central African Republic. If we had the capacity, the capability and the money we could do an awful lot, but we have not got it there or in much of the rest of the world where we all wish to see her words spun into action on the ground. That should not stop us saying exactly what she has said. She has shown formidable leadership in the whole of her speech.

It is good that she has mentioned Popes. Popes sometimes put themselves in the line of fire. Pope John Paul II led a very open papacy and was out and about for his pains. In fact, he received pains; he was shot in May 1981 by a Turkish citizen, for reasons that are still unclear. Of course, Pope Francis has been exceptionally brave and shown considerable leadership worldwide in what he has done in the Central African Republic. In the past, Popes have often been pretty martial themselves: they have got on horseback and led papal armies up and down the peninsula of Italy, chopping off the heads of other Roman Catholics on the other side of the argument.

That is what is so interesting and so challenging about the words in my noble friend's Question: "religiously identified conflicts". It is sometimes very difficult to identify exactly which strand of religion or which manifestation is causing the conflict. If we look at what is going on in the Near East and the Middle East

now with ISIL or Daesh—or whatever the politically correct term this week is for those bodies and what they are doing to each other—they have killed far more followers of Islam than they have killed Christians or anybody else. The one thing that unites the Sunnis with the Shias, whom they despise, is their joint dislike of the Alawites, the Ismailis and others on the outer reaches of Islam. In that way they are no different from medieval Christianity in the west of the Mediterranean going across to medieval Christianity in the east of the Mediterranean during the sacking of Constantinople. There are considerable difficulties, however sophisticated the analyses are, of exactly which brand of religion is going to attack which other brand of religion, because they are very often so busy attacking each other.

We see this today in Syria. I will not go over all the excellent speeches that have been made in recent weeks, but there are minority communities in Syria which deserve our protection: the Alawites, the Druze, and various brands of Catholicism, whether western or eastern. If Daesh or ISIL takes over that part of Syria, there will be genocide among those peoples. If, on the other hand, President Assad is still there, whether we like it or not they are protected. We are in a very difficult position and I do not apologise to my noble friend for asking this most difficult of questions. We are now deeply involved in the fate of the Druze, the Alawites and the Catholics because our Typhoons and our Tornados are now going in and bombing in Syria at the same time as we say we no longer wish to see President Assad in power. So I wish to ask the Minister this afternoon: what strategy do we have to protect those minority groups, whichever way this plays out?

The last point that I wish to make is that just as you begin to try to solve a problem in one place, as may happen in the Central African Republic if we do what the noble Baroness, Lady Kinnock of Holyhead, has just said, then something else pops up. Take a Commonwealth country like the Maldives where we have an extremely radicalised Wahhabi Government. More than a couple of hundred young militants have recently left the Maldives, of all places, to fight in Syria at exactly the same time as on the edges of the Maldives we have alcohol-full rather than alcohol-free international hotels staffed by immigrant labour which may in the not-too-distant future be the centre of unwelcome attention from people in other parts of the Maldives. I do not know what advice is given by Her Majesty's Government on the safety of Christians wishing, for example, to worship in the Maldives. I suspect it is pretty constrained, to put it mildly, in a society where to be a citizen of the Maldives now, you have to adhere to and recognise Islam. You cannot be a Christian if you want to be a citizen of the Maldives. It is full-on Wahhabism there. Recently marine archaeologists found the head of a Buddha which was promptly broken up. So we can see where the next well-scary—as we say in my part of Somerset—threats may be coming around the globe.

2.53 pm

Lord McFall of Alcluith (Lab): My Lords, I am delighted to participate in this debate and I commend the noble Baroness for her consistent advocacy in

tackling the rise in religiously identified conflicts and violence. There is no doubt that Pope Francis is the most influential global leader we have presently. His simplicity, his spontaneity of language and his attention to the weakest attracts the admiration of many people, believers and non-believers. His visit to the Central African Republic was highly significant. In fact, his visit was in keeping with his namesake, Saint Francis of Assisi, who, during the Fifth Crusade, crossed enemy lines to meet Sultan Malik al-Kamil of Egypt to plead for peace. Francis is mirroring this precisely by visiting this destitute and war-torn land. In fact, he is the first Pontiff in living memory to visit a war zone. That comes from his philosophy which was apparent when he was appointed Pope in the Sistine Chapel and he said: "I see the Church as a field hospital after battle. You have to heal the wounds and start from the ground up". And he did that by breaking with tradition. On the first Holy Thursday he did not wash feet in the Basilica of San Giovanni but he went to a juvenile prison and actually washed women's feet, which broke with tradition again. One of those women was a Muslim and in his visit to the Central African Republic a central part of it was visiting the mosque because he was emphasising that religious dialogue in the public square is important.

There are lessons for us at home. Here we have a tendency to articulate the notion that anything regarding religion that is disturbing is not religion at all; that real religion takes place in private. I think we have to disabuse ourselves from that notion, because there is a Muslim problem in terms of the misinterpretation of the theology of Islam by some people; there is a Christian problem in the misinterpretation of the theology of the Crusades; and there is a Jewish problem in the denunciations for lack of orthodoxy. Things happen as a result of religion and if meeting together can lead to us acknowledging that there is a religious problem, then participants can explore and attempt a contemporary understanding of the role of religion. We can do no better than continue the tradition of Assisi whereby Popes John Paul II, Benedict and Francis held interreligious summits at which we now have non-believers present.

In 2011 French semiologist and psychoanalyst Julia Kristeva spoke and invited the audience to discern what she described as a complicity between secular humanism, with its origins in the Renaissance and the Enlightenment, and Christian humanism. She reassessed the great moral codes of our tradition: the Bible, the Gospels, the Koran, the Rigveda and the Tao. The most important thing, she stressed, was the criterion of liberty. That is walking with believers and unbelievers, and that is essential. I wish that for our own country and I have a suggestion. Coming out of this House the other evening I bumped into my dear friend the most reverend Primate the Archbishop of Canterbury and I said to him that I was going to mention him today because I think the Archbishop could call such a meeting. Why do I say that? Because I think that the Church of England above all the churches is under the skin of society. It has a social message which has been loud and consistent over the years. The Archbishop himself, when he took office, set down three criteria. One of the criteria was the concept of good disagreement.

That is very important in the political and the social field. We can see in America that Donald Trump is generating a bigoted discourse and we must prevent that, so we need good disagreement now more than ever. I spoke to the Archbishop the other evening about it, I told him I was speaking in the House, and no doubt his fellow clerics will take that back and join me in saying, "Justin, you are the appropriate man to do this. Let us get on with it".

2.58 pm

Lord Alton of Liverpool (CB): My Lords, I, too, welcome this debate and I am grateful to the noble Baroness for giving us the opportunity to discuss the suffering being experienced in the Central African Republic, one of the five poorest countries in Africa and a country of which she has first-hand knowledge. Undoubtedly, Pope Francis has shone a light into one of the darkest corners of the world, explaining that the purpose of his visit to that maimed and disfigured country was to bring its mutilated people consolation and hope.

Since 2013, CAR has been the scene of chronic violence and unending upheaval, as the noble Baroness, Lady Kinnock, has reminded us. Although religious leaders in CAR have insisted that the conflict is ethnic and political, the fighting has divided the country on religious lines, with mostly Muslim rebel forces fighting mainly Christian militias. In the context of intensified violence this autumn, perhaps the Minister can give his own assessment of the effectiveness of the UN peacekeeping force, to which reference has been made, and how its work can be made more effective.

Given CAR's divisions, how fitting it was that the Pontiff went to both the cathedral and the mosque in Bangui and urged both sides to put down the weapons of war and to work for justice. At the cathedral, he symbolically opened the first door of mercy in what he has proclaimed this week to be a year of mercy. Without this combination of justice and mercy, we will see no progress in the fiefdoms dominated by war lords and their militias. During his visit, Pope Francis trenchantly admonished those who "seek revenge" and warned of "the spiral of endless retaliation".

In April 2014, the interreligious platform of Catholics, evangelicals and Muslims committed itself to promote co-existence and mutual respect in CAR. Its leaders were presented with a basket of eggs, symbolising the fragility of the peace process. Welcome local initiatives and a project giving women the opportunity to take part in conflict resolution have subsequently been initiated. Social cohesion, dialogue and mediation will be key if ever CAR is to move beyond conflict. Without it, there can be no stability, no development and no prosperity. Perhaps the Minister can tell us what more we can do to support conflict resolution.

Given the importance of harnessing religious communities, recognised at the 2014 Wilton Park conference on religion, foreign policy and development, perhaps the Minister can tell us what programmes the Government are supporting which engage with faith communities—but not just as a functional network of delivery agents for social projects—and how DfID will harness the faith communities in places like CAR.

[LORD ALTON OF LIVERPOOL]

Will the Government closely examine what the *Civil Society Partnership Review* has to say about faith communities?

The voices of faith leaders should be amplified at all levels by giving them platforms, communications and travel support, so that they can hold national leaders to account, remonstrate with and lead local communities and engage in international debates about their countries.

Returning specifically to CAR, those courageous few working in this dangerous field say that there are no recognisable government or state structures, and that at this critical juncture there is a need for long-term, predictable funding for at least three years to begin to find sustainable solutions to the crisis, including building state infrastructure, establishing essential services and addressing underlying vulnerabilities. Restoring stability in CAR is not a nine-month programme.

We also need to do much more to stop the obscene flow of weapons from countries in the northern hemisphere into countries like CAR, where children are recruited and turned into killers. AK47s become the weapons of mass destruction.

When he replies, I hope the Minister will make reference to the provision of housing for returning refugees and meeting desperate humanitarian needs.

As the noble Lord, Lord McFall, has reminded us, Pope Francis has said that he sees the church as “a field hospital after battle”. That metaphor could not have a more appropriate application than in the Central African Republic. He also said, when speaking to the United Nations General Assembly in September of this year, that “solemn commitments” which were not followed up on—often, sadly, a feature of United Nations initiatives—could ultimately do more harm than good. What a tragedy it would be if his own initiative in pushing open a door in CAR were not now followed through with determination by the international community.

3.04 pm

Baroness Jenkin of Kennington (Con): My Lords, I, too, thank my noble friend for initiating this debate so appropriately on Human Rights Day, for introducing it so coherently and for her long-standing commitment to this troubled country. I thank her for shining a light on this crisis, in which religion has been used by leaders on all sides of the conflict as a means to divide people. Both Christians and Muslims have been targeted by different armed groups.

Although the conflict is portrayed as religious, the group that is most affected is children. The crisis in the Central African Republic is a children’s emergency and they are bearing the brunt of it. Children are being killed. More than 10,000 children under 18 are currently being used by, or are associated with, armed groups. Children are being subjected to sexual and gender-based violence. Many children are displaced and separated from their families, which exposes them to even greater risk of abuse and exploitation. This is not acceptable.

Let me share with your Lordships the story of a 13 year-old boy, named Francis, from the Yaloke district in CAR. World Vision, working in CAR, met with Francis in June and shared his story with me. At the age of 13, like many other young boys in his community, Francis joined a local armed group after his brother and uncle were killed by community members from a different religious group. He told World Vision that he joined an armed group because he,

“did not want the death of his brother and uncle to go unpunished”.

By the time Francis reached his 14th birthday he had killed five people—four children and one adult. He explained that he had killed these people because they were Fulani, which means that they were Muslim.

Francis is a victim of CAR’s entrenched culture of violence. He has not received any form of psycho-social support to help him deal with his experiences in the armed group. Most aid programmes in CAR are funded only for short periods at a time, often little more than nine months. Psycho-social support and reintegration programmes for former child soldiers like Francis are both desperately needed and desperately underfunded. Often, because they are not short-term programmes but would take at least two to three years to be run effectively, they are not run at all.

So Francis, like many other children in CAR and other fragile states, continues to carry deep scars from the violence. Yesterday at the UNICEF board meeting—I declare an interest as a trustee—we saw a picture of a child just like Francis, but in southern Sudan, who, with UNICEF support, has given up his weapons and army uniform, has been released by the militia and is going back to his last opportunity of any kind of childhood.

There is an urgent need to support programmes which help to address the violence in CAR, such as trauma healing, a package of psycho-social support for those affected by the violence, and livelihood programmes to help local economies recover from the violence. This should fit in with the commitment in the recently published aid strategy. I am sure everyone in the Chamber will welcome the increased resource and expertise to tackle the drivers of violent conflict that threaten stability and development in countries such as CAR. I hope that some of this increased expenditure might be invested in programmes to support survivors of sexual and gender-based violence in CAR. I encourage the FCO to make CAR a PSVI priority country. I am sorry about all those acronyms.

Work in fragile states such as CAR has always been a key part of DfID’s overall portfolio. Since 2013, DfID has committed £58 million to address the needs of central Africans, central African children and refugees from CAR. This funding has enabled agencies to support children who have been separated from their families, to provide services for boys and girls who have suffered sexual and gender-based violence, to reduce malnutrition and to give children access to education and training. So, when DfID explores new options for programming in March next year, I encourage it to pursue a coherent and long-term approach to its engagement there, including long-term programmes to tackle religious conflict and violence.

I, too, welcome the courageous visit by Pope Francis, and his commitment to raise awareness of the situation in the Central African Republic and to highlight the need for forgiveness, tolerance and reconciliation in divided communities. This message was heard throughout the world, and my mother tasked me endlessly during his visit to find more coverage on the television. It really awoke an interest. These values are shared by the Christian and Muslim faiths. As the noble Lord, Lord Alton, said, the Pope's visit to the mosque to deliver a message of peace and reconciliation was a tremendous show of solidarity.

It is important for all involved—Governments and other stakeholders—not to simplify the role of faith in conflict and to draw more on the social capital of faith to deliver stability and reconciliation. Without that, the story of Francis and other child soldiers will become more common, rather than a thing of the past.

3.10 pm

Lord Wallace of Saltaire (LD): My Lords, I am always conscious, when we are discussing the role of religion in politics, that as a small boy I knew that British values were Protestant values and that Catholics were in many ways disloyal and following an alien religion. I did not know any Catholics, but I knew that from reading Charles Kingsley, GA Henty and others. That, I have slowly learnt, was a tribal view, past which I have got except when meeting extremely right-wing American Roman Catholics.

We all know that religion is part of identity and values. It is a way of saying, "I am part of the main group and you are part of a heretical or dissident minority". Passionately felt, it provides a sense of values but also a real way of distinguishing between those you accept and those you do not. The problem with central Africa is that there is a line between Muslims and Christians, between black populations and Arab populations, between pastoralists and farmers and between a whole host of different things. The rising population has made the competition between pastoralists, farmers and others far more acute, as we see in Darfur at least as much as in the Central African Republic, and as we see in northern Nigeria.

Yes, you know that someone is Muslim because he is a Fulani but you also know that the Fulani are pastoralists and you are much more settled. That is part of the problem that we all have. For people whose understanding of religion is often relatively shallow, we know that it provides a sense of, "I know who I am and I hate you, even though I haven't met you before". We have to get beyond that if we possibly can. The answer is clearly to do something about population growth and to help these societies going so rapidly through the transition from traditional society to contact with the modern world with all the reactions against that which lead to fundamentalism in their interpretation of religion. Fundamentalism, after all, was a term invented in the United States by Christians who wanted to insist on traditional Christianity against this dreadful urban, modern, moderate world. As we help them, there is great deal that our Government can do. I want to come back to that in a minute.

Leadership within religions is extremely important. The Pope's visit was extraordinarily important. I only wish that we had clear leadership within the Sunni Muslim world because the absence of leadership there is one of the big problems that we all face at the moment and which the Saudi Government and others need to think rather more about. The sense that different paths to God are possible, and that the different religions that have followed Abraham have something in common in their understanding of God, is the sort of thing that we absolutely have to say to each other, just as we have now learnt to say to each other that Protestants and Catholics actually worship the same God. We did not entirely understand that a couple of generations ago.

We also need to work on the rights of women. These are fundamental to any move away from traditional society. Patriarchy and abuse of religious values go very closely together and have done in a number of institutionalised churches that we had better not name. Population limitation—as far as possible—education, economic development and reduction of inequality all matter, as do open societies and open media. I ask the Government: how far is this an element in their foreign policy as well as in their domestic policy?

The noble Baroness, Lady Warsi, with whom I thoroughly enjoyed working in government, did some very useful work on this. She spoke in Istanbul, in the Grand Mosque in Muscat and elsewhere about the need for mutual understanding between different religions and different societies. I regret, in a sense, that we do not have as coherent a Muslim in government now as we had when she was there. To what extent do the Government think that this continuing dialogue between different communities, different ethnic groups and different religions—of course, these labels all overlap—is still a priority?

3.14 pm

Lord Collins of Highbury (Lab): My Lords, I, too, thank the noble Baroness, Lady Berridge, for initiating this debate and for her ongoing work on this very important subject. During the Pope's recent visit, the religious leaders of the Central African Republic across all faiths conveyed the same message—that this is not a religious conflict but one about power and politics, which has created a false but very dangerous division.

In the debate last October in Grand Committee, initiated by the noble Lord, Lord Alton, on Article 18 of the Universal Declaration of Human Rights, the right reverend Prelate the Bishop of Coventry highlighted the danger of mixing religion and national identity. He argued that too often the abuse of religious freedom arises from a false collusion between religion and national loyalty. He also referred to the platform for Article 18—IRP18—which brought together religious leaders from various faiths to campaign for global religious freedom. Will the Minister report further on the steps the Government have taken to support such initiatives globally? One example given by the noble Baroness, Lady Anelay, was a project in eastern DRC that drew on the influence of the faith leaders in their communities to challenge some of the attitudes to victims of sexual violence and to address the stigma many survivors face.

[LORD COLLINS OF HIGHBURY]

Where freedom of religion or belief is under attack, other fundamental freedoms often face threat too. The Central African Republic, as my noble friend Lady Kinnock said, is a failed state in permanent crisis and has been unstable since its independence from France in 1960. This has undermined the economy and resulted in it being one of the least-developed countries in the world. Its natural resources such as diamonds not only provide a substantial part of the nation's income but drive the communal conflict and political rivalry. Illegal weapons proliferate across the country, with unrest displacing tens of thousands of Central Africans, many of whom cross the border into Chad. Some progress towards stabilising the country was made between 2008 and 2012, but with coups and counteroffensives the risk of genocide was heightened. Instability there affects people not only in CAR but in South Sudan, Cameroon, DRC and other countries in the region. In April 2014, the United Kingdom supported the establishment of MINUSCA, the expanded UN peacekeeping force, French troops returned and the African peacekeeping mission was expanded.

In this volatile situation, there clearly needs to be stability before progress can be made, as my noble friend Lady Kinnock highlighted. President Samba-Panza told the BBC:

“The objective of this transition is to take this country to elections because this is the only way out for us”.

However, with fresh clashes between Christians and Muslims in the capital, the elections scheduled for October were postponed and are now due later this month. The fragmentation and criminalisation of CAR's armed groups makes negotiations much more difficult, with elections possibly exacerbating existing intercommunal tensions and undoing reconstruction efforts. What is the Government's current view on the election timetable? Also, what assessment has been made of the threat by a Seleka splinter group to stop elections going ahead in areas under its control, including in the northern region?

There is a clear need for CAR's transitional authorities and international partners to engage not only with militiamen but with communities. We should incentivise change and provide for effective sanctions if they do not. What is the Government's current thinking on the maintenance of the UN peacekeeping force and what steps are being taken globally and under international law to reduce the income flow to the various armed groups?

3.20 pm

Lord Ashton of Hyde (Con): My Lords, I, too, am grateful to my noble friend Lady Berridge for initiating this interesting debate, and to all noble Lords who have spoken. I have learned much in preparing for this debate—not all of it, I have to say, encouraging.

As my noble friend reminded us, it can be tempting for us, living in Europe, to underestimate the influence of religion in causing and resolving conflict. Of course, we know that there are often multiple causes of conflicts: for example, high levels of inequality and the lack of opportunities, particularly where they divide people according to their ethnicity and religion,

can lead to communal violence, especially in times of heightened tensions. Tackling religious conflict requires a fundamentally different approach—not based solely on economics or a political solution but focusing on ideology and winning hearts and minds.

Often, Governments are not best placed to engage in this area. Our contribution must be to create the conditions for others, particularly faith leaders, to preach messages of understanding and love, not violence. For this reason, we are firmly convinced that religious literacy is of key importance for the FCO. If our diplomats are to offer informed foreign policy advice, they must understand the key influencer in the countries in which they work, and in many places religion is perhaps the most significant of those. We hold regular training courses and seminars to further develop professionalism in this area.

My noble friend Lady Berridge asked what training is being run in the FCO. The Stabilisation Unit provides a range of training on conflict issues, much of which addresses the ethnic and religious dimensions. This year DfID is piloting a workshop on religion and conflict for officials working with fragile and conflict-afflicted states. DfID also funded a small research project by the British Academy to examine the role of religion in conflict and peacebuilding. The results were published in September. I hope this goes some way to assuring the noble Lord, Lord Wallace, that the Government think that mutual understanding is crucial and that dialogue is important.

My noble friend Lady Berridge, the noble Lord, Lord McFall, and others spoke about the Pope's recent visit to the Central African Republic. His visit was hugely symbolic for CAR. It demonstrated that reconciliation is possible and raised the profile of the Central African Republic globally. He raised awareness of the role that faith leaders and faith groups have at a grass-roots level in bringing reconciliation. We welcome the work done by faith leaders in CAR through the religious platform, and we value the excellent work carried out by religious and non-governmental organisations to defuse religious tensions and promote social cohesion at community level. The Pope's humble approach but firm stance against corruption and violence demonstrated the role that all faith leaders need to play, setting the tone for a response which values difference and promotes harmony and inclusiveness, not division.

By contrast, religious extremism attacks the fundamental values that we want to see binding us as a global community, which are enshrined in the UN's Universal Declaration of Human Rights. In CAR, tackling religious extremism is fraught with difficulties. There is little state presence outside Bangui, poor infrastructure and a number of armed groups without direction that have split away from the anti-balaka/Seleka groups, as the noble Baroness, Lady Kinnock, reminded us. As my noble friend Lady Jenkin told us, children often bear the brunt of these terrible events. We have no direct evidence of the presence of any terrorist group in the country, but we are very much alive to the fact that external extremist elements will seek to exploit the conflict should it continue.

I will deal with some of the issues raised by my noble friend Lady Berridge and the noble Lord, Lord Collins, particularly about MINUSCA and what can be done. The UK pays 6.7% of the costs of the UN peacekeeping force, MINUSCA. We contributed £23.2 million this financial year and are projecting a contribution of £33 million in the next financial year. MINUSCA's mandate is up for renewal in April 2016. We will be working with other Security Council members to agree the new mandate. We are particularly keen to press for troop-contributing countries to rotate their troops regularly and for troops to be given training on sexual abuse prior to their deployment to CAR.

The UK has worked closely with EU partners and supported the deployment of the EU's military advisory mission to CAR. Its purpose is to provide the Government of CAR with expert advice, with a view to reforming the military to make it into a professional army. The UK is supportive of the planning stage for a possible EU training mission to follow on from the military advisory mission, recognising that security sector reform is vital to build stability in CAR.

We are one of the largest humanitarian donors to CAR, providing £58 million since 2013 through NGOs and international organisations to support internally displaced people, including with housing, and refugees in neighbouring countries. The British Government have recently increased the UK's commitment in 2015 by £7 million. More widely, the UK funds a wide range of conflict-prevention activity that contributes to the prevention of conflict and mass atrocities; for example, in 2015 we set up the Conflict, Stability and Security Fund, which this year provided £1 billion for conflict-prevention, stabilisation, security and peacekeeping activities. We will increase this funding from £1 billion to over £1.3 billion a year by 2019-20.

CSSF projects include work on reducing intergroup tensions; strengthening justice systems and the rule of law; security sector reform; and disarmament, demobilisation and reintegration, which I will come to in a minute. Africa was allocated £77 million from this year's CSSF, the second largest regional allocation. Our priorities have been tackling instability in Nigeria, countering extremism in east Africa and a package of work in Somalia.

I will deal with as many questions as I can in the time available. My noble friend Lady Berridge and the noble Lord, Lord Alton, asked about MINUSCA's effectiveness, particularly on DDR—demobilisation, disarmament and reintegration. MINUSCA is currently in the pre-DDR phase in CAR, preparing for the launch of DDR. This entails a sensitisation process and an education process for former combatants who will take part in DDR. That is essential to create the conditions for stability and security in CAR. MINUSCA is the lead on the DDR work in CAR, and it has budgeted \$28 million for a DDR programme aimed at what it expects will amount to 3,500 ex-Seleka fighters in total and 1,500 to 3,500 dependants. Through the UK's contribution to MINUSCA, we will support this vital work on pushing DDR forward in CAR. After the elections—I will come to the point made by the noble Baroness, Lady Kinnoek, in a minute—the DDR programme will move forward, working with the newly elected Government.

The noble Baroness, Lady Kinnoek, and the noble Lord, Lord Collins, mentioned the elections. The noble Baroness asked whether we should delay the elections. Our position at the moment is that free, fair and inclusive elections are crucial for CAR's future stability and to enable the country to move forward. Through the international community, we will work to ensure that an elected president appoints an inclusive Government representative of CAR's population. Some 300 extra UN troops have been provided to ensure security during the election period. I accept that there are risks and difficulties in that process. While, as a Government Whip, I am not going to make policy from the Dispatch Box, I will take those concerns back to the Foreign Office.

The noble Lord, Lord Alton, asked about local initiatives for reconciliation, especially interfaith work. The religious platform, made up of Catholic, Protestant and Muslim leaders in CAR, has been at the forefront of peace building and reconciliation efforts, engaging directly with communities that have been affected by sectarian violence. The UK welcomes the work carried out by those organisations.

My noble friend Lady Jenkin asked about preventing sexual violence. In CAR, specifically, DfID is committed to addressing the needs of vulnerable women and children and has supported several agencies to provide specialised services to victims of gender-based violence. These include the ICRC, the Common Humanitarian Fund, United Nations HCR and three NGO consortia which provide psycho-social care to survivors and endeavour to reduce the risk of gender-based violence in CAR and among CAR refugees. They also provide survivors with access to health care.

The noble Lord, Lord Alton, asked what programmes HMG are supporting to foster strong relationships among faith communities. We support a number of projects internationally, through our Human Rights and Democracy Programme Fund. For example, in Burma we have supported a number of projects. These include developing relationships between Burmese youth and different religious communities, and arranging exchanges between activists on religious freedoms in Burma and Indonesia. In Iraq we are funding a project to prevent intolerance and violence towards religious communities by strengthening the ability of youth and civil society to advocate the right to freedom of religion or belief.

My time is coming to an end and, unfortunately, that means I am not able to address my noble friend Lord Patten's question on Syria. It is a pity but I will certainly write to him when I have taken that back to the Foreign Office.

In conclusion, this Government will be unrelenting in using the UK's global role to tackle religious conflicts. We will employ a long-term, comprehensive approach, using our world-class diplomats, overseas aid and Armed Forces to ensure that all people are able to live free of religiously motivated and other forms of violence.

Residential Care: Cost Cap

Motion to Take Note

3.33 pm

Moved by Baroness Wheeler

That this House takes note of the quality and viability of the residential care sector in the light of the Government's decision to delay the implementation of the care cost cap.

Baroness Wheeler (Lab): My Lords, when I was researching for this very important debate, amid all the statistics, press coverage and reports on the cliff-edge financial state of the sector and the impact of the spending review, the one figure that most stood out showing the frightening scale of the crisis in residential care was the Care England figure of £2.16 per hour. This princely sum is the average fee paid by local authorities in England to care home providers to care for residents unable to pay for themselves. Of course, there are other ways of coming up with an average figure across the sector, but I am sure that none of them would produce a very different amount. Care England represents large and smaller scale residential care providers and, as its press release prior to the spending review put it:

"You can't provide quality care for £2.16 an hour, no matter who you are".

According to the Public Accounts Committee, local authorities have faced a 37% overall funding cut in real terms since 2010. They have found it impossible to raise residential care fees to try to keep pace with increasing demand and costs. Data from the residential care industry analysts, LaingBuisson, show that 1,500 care beds have been lost in England this year and that councils gave an uplift in baseline fees of just 1.9%—lower than the estimated 2.5% increase needed simply to keep pace with care home cost inflation. Out of the 166 councils providing information, 53 made no uplift in fees, and the remaining councils had either given increases below the standstill band uplifts, or fee revisions within the standstill band.

The residential care sector is home to 425,000 residents in about 18,000 homes across the UK. One in six residents is over 85 years old, an age group set to double by 2035. Care home residents have a prevalence of long-term conditions, particularly dementia, stroke and diabetes-related conditions. Many residents can have up to six comorbidities. Some 70% of residents in the top three care home providers are publicly funded which makes them especially vulnerable to continuing pressure on council budgets. It is clear, therefore, that throughout the sector self-funders of care help to keep homes viable and in operation.

There is no underestimating the blow for people with long-term health conditions, their families and the providers of care that came from the Government's decision in July to delay implementation of the cap on liability for care costs for four years. Some 35,000 people would have benefited from the cap immediately. The Government's spending review repeated their commitment to introduce the cap in 2019-20, but with no money allocated. Nor was there a commitment to use fully the previously allocated £6 billion funding

allocation for the care cap to ease the growing crisis in day-to-day social care services instead.

Prior to the spending review, there was no shortage of press coverage, providers and social care organisations pointing out the dire state of the sector to the Chancellor. There was the precarious financial state of Four Seasons Health Care—Britain's biggest care home group providing 21,000 beds in 470 homes. It is reported to be on the brink of financial collapse, struggling with debts of £500 million. Last month it closed seven in its words "loss-making and unviable" homes in Northern Ireland. The group has a looming £26 million repayment instalment due, part of £50 million a year it has to pay to service its debts, which it is currently struggling to do.

There were also two separate joint letters to the Chancellor. The first came from the five largest providers—Bupa UK, HC One, Four Seasons, Care UK and Barchester—warning that failure to raise funding would mean that,

"thousands of older people could be left without a home".

Secondly, a letter from 15 social care and older people's groups, including Age UK and the Alzheimer's Society, underlining the urgent need for more central government funding. They predicted a £2.9 billion funding gap across domiciliary and residential social care by 2020 and that,

"up to 50% of the care home market will become financially unviable and care homes will start to close their doors".

Finally, there was the very timely ResPublica study of the private residential care sector. It warned that the funding gap specifically for older people's residential care by 2020 would be £1.1 billion, a third of which will be the cost of the national living wage and which could mean the loss of 37,000 beds. The failure and collapse of Southern Cross two years ago affected 31,000 people. Other private providers eventually provided replacement care for them, although not without huge upset and trauma for the people involved, their carers and families.

As ResPublica points out:

"Given the perilous state of the industry, there is no private sector provider with the capacity to take in the residents who would be affected by the loss of other providers' beds. Consequently ... the worst outcome is the most likely: that the vast majority of care home residents will end up on general hospital wards",

costing the NHS £3 billion a year.

Moreover, while public attention has been on the large-scale providers, we know that 75 % of providers are, in fact, small, local organisations—small group homes run by small teams of owners and staff or, in many of the smaller homes, just by the owners themselves. The Local Government Association estimates that for residential and homecare contracts the national living wage will cost an additional £300 million in the first year, rising to £834 million in the second. Does the Minister acknowledge that small care homes will be the first to go to the wall if the cost of the implementation is not properly funded by central government? We applaud and welcome the introduction of the national living wage—it is vital to the future of social care, but it must be properly funded.

The spending review offers two solutions to all this, under the ironic heading "A sustainable health and social care system". The first is to allow local authorities

the power to raise council tax by up to 2% in their area from next year, to bring in £2 billion a year; the second is a £1.5 billion allocation from the better care fund for councils to access in two years' time. This, we are assured in the spending review, will be enough for councils to shore up core services, increase residential care fees and pay for the implementation of the national living wage from April next year for 900,000 care workers. But how can this limited additional funding be anywhere near enough to address the scale of the problem facing us? Can the Minister explain to the House how this can possibly make the current failing social care system sustainable?

I am sure that the Minister will come back with a string of figures on the amount of money that has gone into social care, but the fact is that the detailed analysis from the LGA, the King's Fund, the Nuffield Trust, the private, charitable and voluntary sector providers and the patient and user organisations such as Age UK, Independent Age and Carers UK all show that this is nowhere near enough. Will he undertake to provide detailed analysis of the Chancellor's sustainability plan for social care? How much of the better care fund allocation is new money into the system, or is it just money shuffled about the system or taken from the NHS?

Earlier this week, the King's Fund put the amount that could be raised by councils as, at most, only £800 million per year, which underlines that areas in the north, Midlands and inner London with the greatest need for social care will lose out because they will be able to raise too little income for the increase to have any impact. Care England's response is that the 2% addition, even if raised across all councils, would not even touch the sides of the problem. The charity Independent Age has calculated that a 10% increase would be needed to plug the social care funding gap, which would of course not be locally acceptable.

Meanwhile, Four Seasons remains in a very precarious financial state. This weekend, we saw reports of the devastating consequences for families and their elderly and frail relatives in its Northern Ireland care homes, which are to be shut down with 12 weeks' notice. Four Seasons is on course to sell 19 homes this year, which will result in their closure, and it has 12 homes under embargo and barred from taking any new residents until the quality of care improves. Can the Minister reassure the House that an impact assessment has been made, that the situation is being closely monitored and that contingency plans are in place in the event of Four Seasons' financial collapse? Four Seasons is also selling homes to other providers, so what checks and measures are in place to ensure that the care and well-being of residents is the top priority in such sales? Does he acknowledge that this is likely to be part of a growing trend, as the smaller group homes struggle to survive?

This debate is also very much about the quality of care in care homes and the people who are cared for, their families and carers. This is the first debate focusing on the residential care sector that we have had in this House in recent years. I am most grateful that we have such a broad range of experience and insight among the speakers today, which will ensure that the full range of key issues facing the sector can be addressed,

particularly the impact of the NHS on the rest of the sector. The ResPublica report makes a very telling comment. It says that,

"the residential care system ... has been overlooked as a partner in the integration of care",

and in developing person-centred care across the NHS and social care. Its report looks to care homes becoming the agents of early intervention and the management of chronic conditions, preventing those conditions escalating and individuals funnelling in to the acute sector, swamping A&E units and local hospitals.

The *NHS Five Year Forward View* has a number of care home vanguards—the first time that the sector has had specific projects and funding—which reflect some of this thinking on trying to promote enhanced health in care homes. The projects have tight criteria for joint working and integration with the NHS and social care on care planning, residents' health and the management of frail and elderly patients. In a number of areas, funding has been partly used to pay a higher fee to care homes so that they can focus on improving care standards and paying staff more, with new and extended job roles. This will mean that they are able to provide the care that ensures fewer residents are admitted to hospital or become permanent residents, rather than being able to go back into their homes after a short period of care following hospitalisation.

The recent CQC report on the state of care shows, as usual, the extent of the excellent care that takes place in many care homes across the country by trained, caring, dedicated nursing and care staff, as well as the reality and scale of the challenges that need to be addressed. The CQC's five tests—that care is safe, efficient, caring, responsive and well-led—have been used for care home inspections since October last year, focusing on homes for residents aged 65 and over. Of the 300 homes inspected, 50 were rated good but 125 were deemed inadequate and 125 required improvement. Almost half of the homes—49%—were in breach of Regulation 18 on staffing, and a third—32%—fell short of Regulation 13, designed to safeguard service users from abuse and improper treatment.

Staff shortages in nursing and care staff, and the needs to attract the leadership and management which a good care home manager provides and make social care an attractive career for young people and people seeking work, underline the importance of the national living wage. The key training gaps identified by the CQC covered the areas of dementia care, safeguarding, mental capacity and deprivation of liberty safeguards which seek to ensure that the care provider does not restrict the liberty of vulnerable residents. Social care is failing dismally to attract new and younger people into the sector. The National Care Forum's recent survey showed that just over 11.5% of staff employed in its member organisations are under 25, while more than half are aged 45 or older. These are all issues that the national living wage, if properly funded, can begin to address.

As a carer myself, I would like to see residential care integrated much more into the care plan for people with long-term conditions living in the community, with regular respite care planned, dated and available as part of the care pathway—and as part of the

[BARONESS WHEELER]

medium and longer-term planning for the person being cared for, not seen as a last resort. Carers UK testifies to how hard it is to book respite care in care homes in advance as part of a planned package of support, because the sector has too much focus on responding to emergency care and placements and cannot give a definite yes if you want a short stay on a specific date. The answer is often “Ring us nearer the time”, which of course is no good at all.

I will end with one case study from my experience as a trustee of our local carer support charity, which sums up the current situation faced in many parts of the country. One of our 73 year-old carers had cared for her husband for four years, through stroke, incontinence and then dementia. She needed a hip replacement. He went into residential care near the couple’s home while she had the operation, but when she came out she realised she could not care for him any longer. He stayed in the care home for two years, publicly funded by the council, with our carer regularly able to visit and help with care and feeding. His incontinence problems got worse and he was catheterised, but frequently pulled the catheter off due to his dementia. District nurses could not keep visiting the home, so frequent hospitalisation took place from the care home until it said it could no longer care for his needs. He did not meet the NHS continuing care criteria and stayed in hospital for months while social services looked for a nursing home near to his wife so she could visit. Finally, he is now in a step-down bed in a nursing home, a specially fully-funded intermediate placement bed at full care home costs to free up an NHS bed. The home meets his needs and his wife can visit him regularly, but he cannot stay there and must be moved in the next few weeks to a social service placement within the council’s baseline fee. The search goes on.

Social care is in dire need of a strategic, ambitious, forward-looking strategy and vision like the *NHS Five Year Forward View*, which has broad cross-party support and support from stakeholders, even if there is concern and scepticism about how the future plan can be delivered in the face of the realities on the ground. Dumping on councils so that they have to raise the money and then take the blame is not a strategy. As this week’s joint letter in the *Guardian* from the CEOs of the King’s Fund and Nuffield Trust put it, the spending review provisions are:

“another setback for people who need social care ... These are sticking plaster solutions and no substitute for adequate funding”, that social care desperately needs now.

3.48 pm

Lord Lansley (Con): My Lords, I am grateful to have the opportunity to contribute to this debate and to thank the noble Baroness, Lady Wheeler, for initiating it. It is my privilege, not having been here for long, to hear your Lordships on this important subject.

It is important that we are discussing this two weeks after the Autumn Statement and the spending review. I am sorry that the noble Baroness, Lady Wheeler, characterised the spending review, albeit perhaps quoting others, as she did at the end of her remarks. I think that the spending review offered considerable additional

resources over the course of this Parliament. I am frank and realistic enough to recognise, not least from conversations with directors of adult social care over the past couple of weeks, that they are sufficient at best to maintain the level of local authority-funded care in circumstances where the demand continues to rise and therefore the gap between availability and demand will grow. At worst, we will be in the situation, as we have been recently, where the availability of local authority-funded care has been falling at a point where demand is rising.

The noble Baroness’s point that there is a need for strategic vision is well taken. It is not simply a matter of resources, even though they are an integral part of the issue. Some of that strategy is being implemented and more is available to us. I pay tribute to my friend Paul Burstow who was a Minister with me in the Department of Health. In the coalition Government, we led together on the preparation of what subsequently became the Care Act. It contains a very important set of measures, including the availability of assessments, additional carers’ rights, more consistent eligibility for care and the availability of universal deferred payments.

We need to go further. Social care and healthcare need to be integrated. Everybody supports that in terms of the integration of service design and commissioning, but, vital as that is, we can and must go further. Integration will only be real if and when care users are increasingly able to exercise control and choice through personal health and social care budgets. To make that real we have increasingly to aggregate the availability of personal health and social care budgets to those care users so that the service providers have an aggregated level of demand to be able collectively to respond and create a market for this.

We must also recognise that this will mean integrated providers with the NHS working with private sector social care providers and housing providers. There is enormous potential for housing providers and other services, particularly personal care services, to redesign the nature of the service they provide. For example, extra care housing providers together with social care providers are able to put together packages that work really well for people who are able to choose between different kinds of accommodation and service.

Time permits me to say one more thing which I think is really important. Much of what we already have in place is the product of the implementation of the Dilnot commission’s view. I hesitate because I may be stealing the thunder of the noble Lord, Lord Warner, and others in the Chamber who may have participated in equivalent work on prior commissions. I asked Andrew Dilnot and others to undertake that work and I think the result was important and right. We have included some of it in the Care Act. The Government have not implemented the cap on care costs and, to be frank, the cap that was intended was in my view insufficient. I continue to subscribe to the view that we should aim to implement a cap on care costs broadly in the way that the Dilnot commission recommended, at around £50,000 with a structure of assessment that means that probably no more than 40% of somebody’s assets would be depleted in the process of means-testing.

The combination of these two things would make it attractive to individuals to insure against this risk in so far as they have to meet that cost, and by taking away a much more substantial part of the risk of high-cost care over a longer period of time make it a more insurable risk for private sector insurers. Additionally, since the Dilnot commission reported we have more options in relation to pension flexibilities, and we always have housing asset flexibilities to enable these insurance products to become available if it is necessary for us to have those resources come into the system.

The original intention for the implementation of Dilnot before the election was that it would be funded out of inheritance tax and changes to opting out of national insurance. That moment has gone, but in internal discussions in 2012 from my point of view we were very clear about how this ought to be paid for, but it was not acceptable inside government. There was not agreement to do it because within the system we have discrimination against residential care in favour of domiciliary care. That creates an artificial distinction that we have to escape from, which is the exemption of the main or only home for the means test on charging for domiciliary care. At any given moment, about 120,000 people benefit from that, and £1.3 billion a year is available to them by virtue of that exemption. That is broadly speaking the amount that is necessary to construct a different proposition for people who are facing the insecurity of potentially very high long-term care costs. We need to go beyond simply enabling people not to have to sell their home to pay for care and give them the security of being able to find, as you do in so many other walks of life, the opportunity to insure against the often arbitrary effects of having to receive long-term care in old age.

3.55 pm

Baroness Brinton (LD): My Lords, I suspect that given the difficulties facing the social care sector at the moment, particularly the residential care sector, much of this debate will focus on viability and financial problems, so I want to start with a comment about quality. Yesterday was the first anniversary of my mother's death. During most of the preceding 11 years, she was at home, but she was also in respite care and residential care, and the care taken by everybody involved—the social services department, the domiciliary care company, the residential homes, one of which was a very small provider with the other part of a much bigger scheme, the hospitals and the intermediate care—was fantastic. I cannot fault any of the support and care she had from the whole of Dorset and all the people who my family were involved with over that 11-year period. It is worth pointing that out because too often we hear of the problems, and it is right that we focus on making sure that care is of high quality, but if we do so by ignoring care where it is of high quality, we miss out on many people's experiences.

Dilnot was a very important point in Parliament's history because the three major parties came together to agree that we needed to move forward together. Social care had for many years been something of a Cinderella issue, but the aspirations of Dilnot were certainly enshrined in some of the Care Act and I am very pleased that the noble Lord, Lord Lansley, wants

to mark Paul Burstow's role as Minister in making sure that much of the detail about the quality of care and the support for carers has been noted.

The problems that much of the sector faces, particularly the residential care sector, are because of the perfect storm that we now face. Much of it is financial but it is not only that. Can the Minister identify where the savings from the non-implementation of the Dilnot report have gone? The noble Lord, Lord Lansley, said that the moment when it could have been funded from other resources has gone. From looking at the spending review and some of the initial statements about next year, I understand that we are talking about probably £700 million being identifiable from that preceding amount. What has happened to it and where has it gone? It is evident that local authorities and the Department of Health are going to face major problems because of the demographics and the pressure of making sure that there are spaces available at levels that the residential system can afford if it does not have extra funding.

The better care fund, which was created by the coalition, was a step in that direction. It was a good one in that it started to change the emphasis from hospital care to residential and community care. However, despite the increase we have heard about, it is back-loaded to 2018 and 2019 and will not help over the next two years. The system is currently in major crisis. The introduction of the national living wage is also going to cause real problems for private providers of residential homes. On the announcement of the national living wage, quoted companies saw a fall in their share value. Major providers have started disposing of large numbers of homes, because they are seriously worried about how they can trade, let alone make a profit. Finally, lenders to that sector have stopped lending, because the business model is bust. If that is the case, everything that the Government are trying to do through the better care fund will be useless. More and more people will be staying in hospital because there will not be the beds for them to go to.

The local authority social care directors estimate that the current local authority shortfall will be £4.3 billion by the end of this Parliament. It is not clear from the spending review that there will be enough to fund the national living wage or demography. We know that cumulative local authority budgets have been cut over recent years, but what is less well known is the result for those authorities with social care responsibility: five years ago 30% of their funding went on social care, while it is now 35% and increasing. As a result, they have had to face tightening eligibility thresholds quite substantially, so that now only those with the most severe need can get any help at all, forcing pressure back on the primary care sector and on hospital trusts.

Members who have been involved in these debates will know that earlier in the year I spoke about one poor pensioner in the north of England who was told quite clearly that one of her legs was social care and one of her legs was her GP. She ended up going back into hospital because the social care element was not able to maintain one of the legs. This resulted in an emergency bed because the primary care would not let

[BARONESS BRINTON]

the nurse look after the leg with the other problem because it was not its leg. That story is easy to laugh at, but when budgets are so tight and protected, it makes people behave in peculiar ways. We have to find ways around this problem.

I have another concern. Some care providers have been told by their local authorities that they should fund the basics, like sick pay and travel between work for those in the domiciliary sector, from the profits they make from self-funders—and that they should not be expected to carry that burden for either health or local authority-funded patients. This is unbelievably facile. We need to make sure that we understand the cost of funding a residential care place. If our public sector is asked to provide it—which it must be for those in need—the funds must be available.

Of course, the demography is increasing so even without the pressure that we are seeing the situation will undoubtedly get worse. In the last few seconds, therefore, I would like to talk about a parallel. If the pressure that we are seeing in this sector was evident to people on the nightly news in the way that we have seen flooding in the last few weeks, I suspect that the Treasury would act all too quickly in making sure that emergency funds were available.

In closing, I repeat my question to the Minister. At the very least, please can we be assured that the money that should have gone into Dilnot is passed straight through to the sector this year, not just some of it during this Parliament?

4.03 pm

Lord Turnberg (Lab): My Lords, I, too, am grateful to my noble friend Lady Wheeler for introducing this debate and pointing out so clearly all the difficulties we face. It is difficult not to be gloomy and I am afraid I shall not lift the gloom. Way back in 2011, we had a harbinger of what might happen to care homes when Southern Cross failed with the loss of a large number of beds. Local authorities, which are mandated to care for their needy citizens, were left to pick up the problems; they cannot refuse to do so. Now we are starting to see more of the same, as other large providers of care homes get into difficulties. The latest is Four Seasons, as we have heard, which finds that offering this type of care is increasingly non-viable financially. As my noble friend Lady Wheeler said, it is already in considerable debt, as has been laid out in stark terms in the *Financial Times*. We could see the loss of many more beds and Four Seasons is unlikely to be the only one so affected.

It is not difficult to see how we have got into this situation. Government funding for local authorities has been severely squeezed and the impact is clear. Since 2010 there has been a fall of 25% in the number of people receiving social care, and the fees that care homes receive from local authorities are strictly constrained. To add to their problems, they are now faced with having to pay their staff the new living wage. Quite right, so they should—these staff have been disgracefully underpaid for the critically important work that they do—but it will cost the sector some £2.3 billion over the next four years. The net result is that care home providers are hit with the double whammy of increased costs and limited income. It is

little wonder that they cannot break even. Private domiciliary care providers such as Allied Health have found themselves having to face up to the extra costs due to an EU directive obliging them to pay for journey times to and from domiciliary visits, when hitherto they have been able to get away with it.

It is not only on the supply side that there are difficulties; the demand side is difficult, too. Since 2009-10, the over-75s have increased by about 500,000, a 9.5% increase. It is not simply the increase in numbers that is problematic; the elderly are living longer with disabilities. It does not help to know that in the UK the time between the onset of disability and death is now seven years. That is seven years of dependency. That compares very unfavourably with Norway, where people suffer only two years in need of support before they die.

Of course, many of the causes of dependency lie outside the remit of the Department of Health, but public health clearly does not. While lip service is paid to prevention in all the health plans that one reads about, it is sad to discover that funding for public health is to be cut—by something like £800,000, I am told. That seems an extraordinary thing to be doing when we are trying to reduce the burden of disease. I well understand that it would be difficult for the Minister to change Treasury plans, but is there anything he can do to suggest that it would mitigate the impact on public health?

All this is leaving local authorities and hospital services to pick up the tab, and neither is in a good position to do so. The fall in government support for local authorities is supposed to be bridged by permission to increase their council tax by an extra 2% a year, over the 2% that they already have the flexibility to raise, for the next four years. However, to raise a total of 4% a year across the country consistently for several years is a difficult ask, and it will be much more difficult in poorer areas of the country.

As we have heard, they will have access to the better care fund, money transferred across from the NHS, but they will not receive much, if any, for the next two years. By 2021 they will get about £1.5 billion, and it is interesting that this transfer just about matches the extra that the NHS is due to get. So there is not much relief for the next two years. Local authorities will inevitably have to raid other budgets—but they will already have been doing so for some time, and there is little slack left in the system.

I did not want to talk about the hospital sector in this debate, but it is hard not to when we know that some 30% of beds are occupied by patients who do not need to be there. Everyone knows that. If nursing homes start closing, more patients will be admitted unnecessarily to a place quite unsuited to their needs, and there they will stay for far too long. It is certainly true that the NHS received a very welcome boost in the recent CSR. We should not look this gift horse in the mouth as it is sorely needed, but I fear that it will be only a temporary relief. As the noble Lord, Lord Lansley, said, we desperately need a more basic change in the way that we provide health and social care. It seems inevitable that we will move much more rapidly to a joined-up health and social care system, the fully

integrated service that is talked about so glibly. I am not sure that it will necessarily save money—indeed, it may even cost more to get it off the ground—but that must be the way to go for the patients.

Here and there across the country, efforts are being made by innovative and dedicated managers to do just that, but they are having to operate against the grain of the bureaucracy that we have set up centrally. What progress has been made since David Dalton's report to smooth the path to integration by government, and can we expect a more rapid uptake locally? It will not solve all the problems we face—I fear that more funding for social care by one means or another will inevitably be required—but it will go some way to improving the care of a large number of our most vulnerable people who are currently being shipped around or, even worse, being neglected completely.

4.10 pm

Lord Filkin (Non-Aff): My Lords, I declare an interest as chair of the Centre for Ageing Better, a new What Works centre promoted by the Government and well-endowed by the Big Lottery Fund but with full independence from both. I thank both for their wisdom in promoting it. The centre seeks to seize the benefits of the longer lives of more older people, so that we all benefit from that.

Some noble Lords will remember that two years ago this House produced a report, *Ready for Ageing?*, which set out the enormous opportunities of longer lives. It also made very clear that both individuals and the Government had to change to avoid a series of miserable crises—to quote roughly from it. I fear that what we said then has come to pass and we are now in the midst of a miserable crisis on social care, which I fear will only get worse.

Most of this debate will be spent talking about the immediate crisis. I am not going to do that; it has been well covered by other noble Lords. I will suggest instead that it is essential to look forward five or 10 years in public policy and public debate. The number of people aged over 85 will have increased by 17% by the end of this Parliament. In 10 years' time, it will have increased by 40%. This is a social revolution and it matters because most formal social care is focused on those aged over 85. Another National Audit Office figure shows that 50% of those aged over 85 require some form of social care. We have clear evidence of rapidly rising demand and have experienced some of it over the past few years.

The Commission on the Future of Health and Social Care said:

“The government appears ... to have no strategy whatever to tackle the rising and pressing needs for social care”.

I regretfully agree. This matters massively. We are talking about our oldest old in society and how they are treated with decency. We are talking about very fundamental things—help to get out of bed in the morning, help to wash or to bath and help to put on shoes and socks, let alone other forms of care. It is not some abstract debate about public policy.

What is needed by all of us—the Government as well—to address this? There is not time in seven minutes to give more than a very crude agenda, which

most noble Lords know already. We clearly know that people wish to sustain their independence for as long as possible; therefore there is a serious question about what needs to be done and what works to sustain an individual's independence. We all know we have to grow and support informal care. It is the foundation of care in our society and I am glad the Government are making progress on how to support carers more. We also have to use the asset of more older people and community action to address how to support more frail and ill older people. This will deal only with lower levels of need. You cannot expect some of the really heavy lifting to be done by individuals and volunteers.

That takes us to the fundamental question about what sort of supply of care we need to cope with the certain rapidly increasing demand we face. It is obvious that we need more home care because it is fundamental to making the system work well. We will need more residential care—that is a starting point. ResPublica estimates that 15% more residential care will be needed within five years. Even if it is wrong by three percentage points, it is a significant increase. We need, above all, a much bigger and more skilled care workforce to cope with more residential, domiciliary and palliative care.

Yet the consequence of local authorities, which dominate the market, being starved of funding is that we are driving down supply and weakening the ability to build a workforce for the future. There is not much sign anywhere that anybody has a strategy either for workforce and skills growth or for generating the mixed supply of domiciliary and residential care that our public will need as we go forward. That is staggering and horrific.

I shall give your Lordships one piece of evidence that shows why the care market is going south when it should be going north. Professor Martin Green, the chief executive of Care England, wrote to me this week. He said that Care England, which represents carers across all sectors, is now recommending to care providers that they should try to withdraw from the publicly funded provision of social care. That is on-the-record advice, and noble Lords already know why it has been given. It is a shocking situation.

I would like to ask why we are where we are. None of what I have said is news to good officials in the Department of Health, and it is not news to a good, thoughtful and well-informed Minister. What I have said is all known but we are not seeing action—for two reasons. One was set out very well by the noble Baroness, Lady Brinton, and it relates to the hidden misery. Hundreds of thousands of people are suffering in invisible places and, unlike the NHS, they do not have political salience. The second reason—I am not being party-political; your Lordships can see where I now speak from—is that the Ministers in the Department of Health are trapped within the Government's fiscal and political stance. I do not deny the importance of fiscal balance but it is clearly possible to achieve fiscal balance and better care at the same time if you apply your mind to it and if you give bold political leadership. Fiscal balance is necessary but we also have to grow a market and a workforce to cope with social care.

As I get towards the end of my remarks, I ask your Lordships to consider the irony of a political stance—which many of us understand—that involves seeking

[LORD FILKIN]

to protect pensioners in a very privileged way in relation to tax and benefits. That is what has happened in our society and it is the stance of the current Government. Yet, at the same time, the Government are withdrawing funding, which means that now—and the situation will become even more serious over the next five to 10 years—hundreds of thousands of pensioners will be deprived of the support that they will desperately need in order to live in circumstances where there is respect and decency.

Trivialising matters slightly, we should ask whether many of our older people would be prepared to trade some of the highly privileged tax and welfare benefits that they now get so that they and others who are older can benefit from the required levels of support and decency. A strategy will be required, as well as consistent public funding, to ensure that those in the greatest need are properly cared for. That will require a much more grown-up debate than I have seen any sign of yet on how our welfare settlement needs to adjust in order to cope with the many more older people who will have the opportunity to live longer lives. We are obviously not facing up to the changes that we need to make in public policy but it is urgent that we do so.

4.18 pm

The Lord Bishop of Bristol: My Lords, I join other Members of your Lordships' House in thanking the noble Baroness for securing this debate. I admired her high-paced delivery of a lot of information without losing any clarity. Like the noble Baroness, I hope that this will not become a debate where we just trade statistics across the House, because in the end, as the noble Lord, Lord Filkin, has just drawn our attention to, this is about people and their lives, and therefore it is a matter that should be, and is, of great concern to us all.

If I stand in my bathroom and look out across the fields in north Bristol, I see the shell of Winterbourne View standing there as a testimony of what can go wrong with residential care when the business model is bust and the whole thing falls apart. It pains me to look at that building day by day.

Your Lordships have made it very clear, through the competence of this debate, that we have to do better. Just this morning when I turned on my radio, I heard that the Nuffield Trust is saying there is going to be a massive crisis this winter in the National Health Service, because a lot of people who are in hospital really should be in residential care but there is no space for them. We all know well—certainly, your Lordships know well—that we have an ageing population. More people now live in single-occupancy homes. People are often, sadly, estranged from or live a long way away from their families. Although I agree with the comments made this afternoon about complementary domiciliary care, we are here to talk about residential care and what that might look like going forward.

The chairman of the Commission on Residential Care, Paul Burstow, having noted, as the noble Baroness, Lady Brinton, said, that there are some very good examples of care, said:

“There are some tough messages. The brand of residential care is fatally damaged. Unloved, even feared, for most people residential care is not a positive choice. Linked in the public mind to a loss of independence, residential care is seen as a place of last resort”.

We heard from the noble Baroness, Lady Wheeler, about the Care Quality Commission's evidence. We have heard about ResPublica, which has revealed the devastating fact that 37,000 beds will be lost between now and 2020.

I remember, back in the 1990s, when I was more closely allied to investment institutions, there was quite a move for investment institutions to invest in residential care. If I recall rightly, even the Church Commissioners looked at that. Now, we seem to be in a very different place. We have heard about Southern Cross, and about Four Seasons. I know the Minister will be concerned about this issue, but to my mind it does create a massive void in terms of how we are going to deal with it. I am not clear, as yet, from what I have heard from the spending review, that the plan thus far will be able to fill that void.

I am most grateful to the noble Baroness, Lady Brinton, and to the noble Lord, Lord Lansley, for mentioning Dilnot. The Dilnot report was a very important piece of work which I hope will not get lost. I hope the Minister will feel able to comment on exactly where we go with that.

There is a lot of anxiety, especially about documented failures in the care system. I think it was Oscar Wilde who said that biography lends terror to death. One might slightly bastardise his comment and say that residential care lends a bit of terror to those who know or feel that they might need residential care going forward. We have had Winterbourne View and Hadleigh House in Lincolnshire, and we heard the Minister this morning repeat a Statement about the terrible abdication of care in Southern Health NHS Foundation Trust. I welcome the fact that the Government and the NHS are now placing a renewed emphasis on palliative care and end-of-life services, but can the Minister assure us that it is equally essential that the priority being given to end-of-life services be applied adequately to residential care?

There is anxiety about this whole issue. Let me end where I started, by reminding your Lordships, as several noble Lords have reminded the House, that in the end this is about people. It is about the kind of care they might get, and how we face the cost of that. It is a particular anxiety, I guess, for those people who do not have what are called fat pensions or easily realisable assets to pay for their care—in other words, some of the poorest people in our land. The question remains for me: who will care for these vulnerable people when they can no longer look after themselves? We are facing a huge problem and I look forward greatly to hearing the Minister's response to many of the questions raised by noble Lords.

4.25 pm

Baroness Redfern (Con): My Lords, I, too, join other noble Lords in congratulating the noble Baroness, Lady Wheeler, on introducing this very important debate this afternoon.

I know all too well, through my own local authority in North Lincolnshire, the pressures the sector faces, both locally and nationally, in providing high-quality and affordable residential care. As Members of this House are aware, the first stage of the Care Act 2014 came into force last year, providing a single, modern statute that puts an individual at the centre of their own care. The introduction of a cap on care costs is welcomed by many. However, without going over ground already covered this afternoon, concerns were raised regarding the cost to public sector spending of a cap.

As a result, Her Majesty's Government announced in July that there would be a delay until April 2020, particularly to allow further consideration on the implementation and sustainability of what will perhaps be the biggest reform of the payment of care since 1948. I strongly believe that Her Majesty's Government wholeheartedly support reforms to assist those requiring care, and I look forward to further announcements on this.

That said, let me turn to my authority and add an important local dimension to this debate. As a local authority we have looked at the best way to implement these reforms to care and support under the new rules of the Care Act 2014. We put people at the heart of what we do and constantly work from that position to help those in need. We work hard to ensure that they remain safe and properly supported. We want to work with those who receive care and, importantly, their families to transform their lives for the better.

I am pleased to inform your Lordship's House that North Lincolnshire continues to be a high-performing authority and we continue to develop and enhance a vast range of care and support services to meet local needs. Although the changes to the Care Act aim to give greater choice and control to those in need of support, we found that we are already fulfilling some of these duties. We said that we would increase the number of vulnerable people helped to live and receive care in the community, and we achieved this through a number of different routes.

First, we did this by increasing the accessibility to advice and information at the time of choosing a care package. We also carry out regular reviews to check progress with the individual's care. Access to information of services is incredibly important, and the adult social care outcomes framework measured the percentage of people who found this information about services in North Lincolnshire increased from 77.4% in 2013-14 to 84.4% this year—the joint highest result in England.

Secondly, we established community well-being hubs, which offer access to services for those with more complex care and support needs, helping individuals to identify ways to improve their independence and well-being. I am pleased to say that we now have five of these hubs across North Lincolnshire as well the Sir John Mason intermediate care centre in Winterton, which I mentioned in my maiden speech such is our belief in the excellent facilities on offer there.

By working closely with health colleagues and other organisations, more people are being supported to remain living well—that is really important—for longer in their own homes and community. A great focus has

rightly been placed on adult carers, with an increase in the number supported than in previous years. The noble Lord, Lord Lansley, earlier alluded to working with partners to increase the provision of suitable and adapted housing for people with complex needs. More people than in 2013-14 now have control of their own support, through a direct payment which is personal to the individual's need. A personal budget gives people control to choose how, where and when they will be supported.

Our ultimate intention is to ensure that everyone living in a care home receives good and outstanding services across the area, and we want to work with them to achieve this. We also said that we would increase the number of vulnerable people who have real choice over their care and the support they receive. By undertaking personal assessments, again we support people to remain independent, and we make sure we personalise the approach to their care. Independent living is, I am sure, something that noble Lords would agree that many of us at times take for granted.

Furthermore, I cannot stress enough the significance of the relationships social work teams must have with individuals, their families and carers in order to understand their care and support needs, and how they would like these needs to be met. The better care fund, introduced more than two years ago, creates a single shared budget, which encourages the council and NHS to work together.

The priorities of the partnership agreement were to reduce hospital admissions, lengths of stay in hospital, delays in transfers of care from hospital and also permanent moves into care homes. To end, North Lincolnshire's social work teams continue to ensure that people are at the heart of what we do. I hope that other local authorities, too, welcomed the reforms to the residential care sector and that they had as much success in implementing them. As we have discussed, for the first time in nearly 70 years we are presented with an opportunity to undertake a proper review of residential care. I welcome Her Majesty's Government giving proper consideration to designing a means to support and protect vulnerable people from potentially catastrophic care costs, both in North Lincolnshire and across the country.

4.31 pm

Lord Lipsey (Lab): My Lords, I declare my interest as unremunerated president of SOLLA—the Society of Later Life Advisers. I do not know how many noble Lords had a chance to catch the serialisation of the new book, *Alive, Alive Oh!*, by the inspirational Diana Athill, on Radio 4 this week. Diana Athill is someone who chose to go into residential care and has never regretted that decision. There is a strong tendency, in my experience, to think of residential care as a second best—what you fall back on when you can no longer safely stay in your own home, or your relatives cannot or will not support you. That lay behind Gordon Brown's infamous plan to make care free at home while it was still charged for in residential homes. However, that view of the world ignores the loneliness, discomfort and lack of physical support that so many old people struggling on at home experience, whereas good residential homes—the CQC rates three in five

[LORD LIPSEY]

as good or outstanding—provide many things that old people such as Ms Athill value: company, comfort, care and community activities.

The puzzle for me is why more people do not opt for residential care. Fear of the unknown is, I am sure, part of the answer. But a major factor is cost. People worry that if they go into a home, the assets they hoped to leave to their children will be denuded. That is why there was almost universal support for the Dilnot report, which advocated making the means test less onerous and capping care costs. That support included the party of government, the Conservative Party. Its manifesto said:

“We will cap charges for residential social care from April 2016”.

That was the election manifesto that the people endorsed in May, and which was torn up by the Government in July. They sneaked out, on a Friday afternoon, an announcement postponing the cap until 2020. They reneged on their pledge once; can anyone in this House be confident that they will not renege again come 2020, when there are so many attractive things that they can spend money on to buy another election victory?

The Government sought to blame local authorities for this delay. It is true that local authorities were very concerned and had difficulty implementing the cap—for one reason only: the Government were setting onerous conditions on how they should implement it, without providing them with a fraction of the money that they needed to put it in place. Personally, and as an old defender of local government, one of the things that I do not like about this Government—I do not dislike everything about them—is a strong tendency to blame local authorities for things that have come about simply because central government has denied them the funding that they need.

The postponement of the cap was not the only thing that the Government did. They smuggled out the abandonment of another Dilnot proposal even more surreptitiously so that no newspaper to this day has noticed it—a proposal that is even more important and desirable than the cap. That was the raising of the cap for the means test. At the moment, you start to get some state assistance at £23,250; you get all your care paid for when you have only £14,000 left. Dilnot recommended raising that to £118,000. Before the election the Government said, “Yes, we’ll do that”, and after it said, “No, we won’t”. People who have worked hard all their lives have the prospect of seeing their wealth evaporate as they sit in residential homes. No wonder not many want to go into one.

The Government did that, but they did not drop the taxes that they imposed to pay for it. To take one, they froze the inheritance tax threshold for three years to get the costs. That raised £690 million over three years. We do not have that back now that it is not being spent on this subject; they have kept it. I have heard of stealth taxes and of death taxes, but this is the first example in human history of a stealth death tax.

Finally, we have heard a lot in this debate about underfunding. I agree that those of us who attack cuts are often guilty of not saying how the cuts that we do not want to make will be paid for. I have one suggestion

where substantial sums can be raised in this field and used to improve the quality of care. I do so with a clear conscience because it is a piece of government spending amounting to about £500 million a year, for which I was very largely responsible. When I was part of the minority report of the Royal Commission on Long-Term Care of the Elderly—its distinguished chairman will speak to the House later—we wanted to go some way to meet the belief of the majority in free care for all. We therefore suggested that nursing care should be free for those who need it—strictly nursing care. There was a logic to that because nursing care is very like what you get in the National Health Service for free.

As I have gone on, in view of the shortage of resources I think that this was a rather unwise suggestion. Almost all the money involved goes to people who are rather well off; it is not like the means-tested money that goes to people who are less well off. It is indiscriminate and mostly helps the rich. So far as I can find out, because it is paid to care homes, very few people know that they are getting it anyway. If it were abolished—not for existing recipients, of course, but for new ones—the Government would save in excess of £500 million a year, which could be used to up care home fees, make them more viable and make the standards that they provide better for all our older people.

4.38 pm

Baroness Pitkeathley (Lab): My Lords, I thank my noble friend for the opportunity to debate this important issue and congratulate her on her timing, in a week when so many relevant reports are being published.

Your Lordships will know that it has become axiomatic to say that social care is in crisis. The situation faced by care homes is an integral part of that, but I must first acknowledge the improvements in the care provided in care homes since I was first involved in this issue more than 40 years ago. We have moved a million miles away from the old pattern of local authorities providing a very low level of care, to a mixed economy of mostly private and voluntary care home owners commissioned to provide care by local authorities. Our standards are now higher. Single rooms with en-suites were unheard of in the 1980s. Now they are of a standard to which everyone aspires, although sadly, financial pressure is now leading to concerns about the quality of the care.

While we must acknowledge improvements, we cannot turn away from the problems faced by the care home sector. It is proving more and more unstable as cuts to local authority budgets bite and financial pressures lead to concerns about the quality of care and the amount of care available in the future. The delayed implementation of Part 2 of the Care Act, the new means-test levels and the increased pressure on local authorities to arrange care at the request of self-funders all contribute to the crisis. I, like other noble Lords, would like to know what has happened to the saving the Government accrued by not implementing the care cap. I am sure the Minister will tell us that. It was to be hoped that following the Autumn Statement, we might have been more optimistic but there is widespread agreement among care home providers and others that the Chancellor missed an opportunity. Indeed, it has

been called another setback for social care. Of course, the major review announced by the Chancellor into integrating health and social care by 2020 is welcome, although I would be more hopeful of this if it were not the umpteenth time I have heard such a pledge over my lifetime. Indeed, in the 18 years I have been in your Lordships' House, I do not think there has been a year when we have not had a debate—sometimes I have been sandwiched between the noble Lords, Lord Lipsey and Lord Warner, as I am today—in which better integration of health and social care was called for and promised. We are still waiting.

Councils, as we have heard, will be able to raise council tax by up to 2% to fund adult care, but not every council will be able to levy this much as their cost bases are so different and it will not be uniform across the country in any case. If every council raised it by the full 2%, this would only raise about £800 million—a fraction of the shortfall of £2.9 billion. And we still have a major problem with the relative clout of health and social care, as the noble Baroness, Lady Brinton, has reminded us. We tend to focus on hospitals and healthcare, while social care in any form is seen as a poor relation. It is news if hospitals are under pressure, much less so if local authorities are, and even less if care homes are. I, too, want the crisis in social care and the care home sector to be given as many column inches as the floods have been given this past week.

Undoubtedly, care homes will begin to close when the national living wage is introduced in April. No one disputes that this is the right thing to do but we have to recognise the strain it will put on care homes, especially the small operators. One group of providers estimates that it will cost £10 million to put their 14,000 employees on the national living wage. Care homes which provide for self-funders will no doubt put their fees up to accommodate this, but those who depend on state-funded residents have already suffered a real-terms cut of 5% in fees over the past five years. Even if councils do manage to raise more via council tax and raise fees accordingly, I fear that many homes will shut.

Nor should we confine our concerns to the private home care sector. Thousands of people in residential care are provided for through the voluntary sector, and these homes are often preferred by residents for the understanding they bring to particular conditions or particular ethnic groups. Many voluntary organisations have in fact been subsidising the care home sector for years. Financial pressures are now catching up with these organisations too as their fundraising becomes more difficult and local authority support is being withdrawn. Naturally, this will be of great concern to family carers. For many, care homes are a last resort, contemplated only when the carer is absolutely at the end of his or her tether, often after years and years of coping alone or with minimal support. I remind your Lordships that the latest assessment of what carers save the nation is £132 billion a year—the cost of another complete health service.

Sometimes, having a care home available in the background or to provide respite care, if only for a weekend or the odd week once a year, enables the carer to continue. Therefore, carers' needs must be factored

in when we contemplate the future of the care home sector. Even when the cared-for person is eventually admitted to the care home, the family carer often visits every day and spends many hours seeing to the needs of their loved one, becoming part of the care team.

Good care that meets the needs of the person being looked after can improve a carer's ability to cope for longer periods. If care is poor, it can have a huge and damaging effect on carers as well as residents—not only directly on the amount of care they have to provide themselves, but on their emotional and physical health and their finances. If residential care becomes a less viable option in certain areas, the consequences are stark for families as well as for those in need of care.

We have concentrated today on the problems faced by the care home sector. Many will be solved by more money but we really need—as so many of us have been saying for so many years—a five-year plan for social care as far reaching as the one for the NHS: a fully integrated service with budgets and services that are not differentiated. That would be possible if the will was there but, sadly, there is no sign of this so far. I am sorry to sound cynical. I hope the Minister can convince me otherwise.

4.46 pm

Lord Warner (Non-Aff): My Lords, like others, I congratulate the noble Baroness on securing this timely and important debate and on her excellent analysis. I declare an interest as a member of the Dilnot commission and I am grateful for the kind remarks made about our report in this debate. I am, naturally, disappointed that the Government have chosen to postpone until April 2020 the implementation of our proposals, which were set out in Part 2 of the Care Act 2014.

I start by asking the Minister: what happened in the spending review to the £6 billion set aside for implementation of the Care Act? As far as I can see, only about £700 million has found its way into the social care budgets.

I shall focus on the sheer unsustainability of all publicly funded social care on the path we are now set upon. This is a totally avoidable man-made crisis which has been going on for a long time. We set out in our report that social care funding going back to the 1990s—this has gone on under successive Governments—has not kept pace with the NHS, despite the fact that it was dealing with the same demographics. We said it was underfunded in 2010 by £1 billion and that things had to change. They certainly did—they got worse. Then, up to 2014-15, another £2.5 billion disappears from the social care budget. A Parliamentary Answer to me on 24 November this year by the Minister shows adult social care spending dropping from £17.19 billion in 2010-11 to £15.51 billion in 2014-15, in constant prices and with NHS transfers included. We can debate the precise figures but before we start the next financial year, there is a black hole something north of £3 billion in social care budgets for publicly funded social care. That will get worse with the arrival of the national living wage, which I support, which is estimated to cost more than £300 million in 2016-17 and more than £800 million a year by 2019-20.

[LORD WARNER]

What have the Government done in the spending review in response to this financial conundrum? They have promised an increase in the better care fund of about £1.5 billion. However, the small print suggests that little of this money will arrive before 2018-19. As others have said, councils will have the power to raise council tax by 2% a year from next April without a referendum. That is a great idea. However, the Institute for Fiscal Studies suggests that, even after four years, the best that will have done is to get the annual increase up to somewhere approaching £1 billion.

We also have to accept, as the Institute for Fiscal Studies has pointed out, that there will be enormous geographical variation in the way that precept is applied and in the amount of money it will produce. Will there be any smoothing mechanisms after April 2016 regarding these precepts?

Of course, councils could cut other services to fund adult social care, but they have already put £2.5 billion into social care from this source since 2010 and the departmental expenditure limit for local government is to be cut by a further—wait for it—56% by 2019-20. The Government seem to be betting the farm on local retention of business rates to plug the gap, but we will not know how much this will produce until a consultation on retention is undertaken. It looks to me as if the funding hole in adult social care gets worse and worse in the next two years.

The results of this continuing funding failure are that eligibility criteria continue to be tightened, payments to service providers shrink further and standards of services decline, sometimes dangerously. Some 400,000 people have already left local authority-brokered care over the last four to five years. Self-funders in care homes are now subsidising publicly funded residents in the same homes by up to 40% more than councils are willing to pay. Another recent parliamentary Answer to me by the Minister shows the number of registered residential care homes declining by about 1,100 to just over 17,000 between April 2010 and April 2015. Occupancy is dropping in many homes, and some sources say there are around 60,000 empty care home beds. There are plenty of beds—just no money to buy their use.

Providers are leaving the sector or concentrating on self-funders only, or on higher quality and higher-price offers. The financing models and backing of some big providers now look very fragile. You need do no more than read the financial pages to see this. There is no capacity in the system to cope with another Southern Cross failure. Will the Minister say whether these problems in the care home sector feature in the Department of Health's risk register?

I do not have time to say much about the knock-on effect on the NHS. Some 20,000 people are now almost a permanent stock awaiting hospital discharge, and the figure can only get worse. If there is a collapse in the residential care home sector, the NHS becomes the carer of last resort. That is an inevitable consequence, and that is not the only factor for the NHS. This will eat up a lot of the resources that the Chancellor has already put, or has promised to put, into the NHS and it will knock Simon Stevens' five-year forward view seriously off course.

Near where I live, a rather beautiful Georgian house recently collapsed because the misguided owner had hollowed it out so much. The collapse has put in jeopardy the survival of the next-door neighbour. This strikes me as a rather good analogy for what is happening to adult social care.

4.53 pm

Lord Bhattacharyya (Lab): My Lords, I also thank my noble friend Lady Wheeler for securing this debate. When two years ago the Government committed themselves to capping the cost of care, the Health Secretary said that the policy would create,

“certainty, fairness and peace of mind”.—[*Official Report, Commons, 11/2/13; col. 592.*]

Both the summer postponement of the cap and our debate today demonstrate that those pledges are just a distant hope. True, the challenges the Government faced were vast. Social care was an unreformed, unsustainable system. For some, social care meant losing all their savings. For others, it meant inadequate homes, or worse. A growing number were denied support altogether.

The Care Act was a serious attempt to address these issues. It was not perfect but it put a limit on financial risk and set clear guidelines. However, five years after Dilnot, we find that 400,000 fewer people now receive social care and 1 million more elderly people have unmet needs. Care home providers warn of bed reductions and home closures. The only place where the cost of care has been capped seems to be the spending review. After all, we know that the cost of care is growing for those in need. The threshold at which you must pay the full cost of your care has now been frozen for five years. This care creep means that more and more pensioners are losing the right to any help with social care every year. Those who still qualify for some support have seen their bills increase by almost 50% since 2010.

We know that pressure is growing for carers. Since the turn of the century, 1 million more people have become unpaid carers. The number of carers doing 20 hours of unpaid work each week is up by over a third. The LSE estimates that a third of a million carers have left the workforce altogether.

We know that the burden of care is falling on our health service. Cancellations of urgent operations in the NHS have almost doubled in just two years. The reason? Patients cannot leave hospital if there is no care at home. Just last week NICE told hospitals to appoint a discharge co-ordinator to try to get patients out of NHS beds. That is money being spent in the NHS to deal with the care cuts.

We have heard the Government's response to these growing stresses in the system. They say that councils can increase taxes, which is welcome, of course. However, you cannot fund national social care fairly with a system that allows Wokingham to raise twice as much per head as Birmingham. Next, the better care fund is being increased—but only in two years' time. We shall wait and see. Finally, the care cap is being delayed, as many people have said, saving £6 billion. The truth is that the savings from delaying the cap will come from the assets of those in care. With no care cap, more

family homes will become deferred payments for social care. Self-funders will still get no support for five years, even if eligible for help.

I accept that there are no easy answers. Many of these issues dogged the last Labour Government as well. Nor do I think you can build a strong social care system on the basis of unsustainable borrowing. Ultimately, if we want decent social care, we must pay for it. I will highlight two ways in which we could do so. First, it is bizarre that while we are making huge cuts to social care, we are increasing pensions via the triple lock. The Government's actuaries say that the triple lock already costs an extra £6 billion a year. That is the same as the care cap. Politically, the triple lock may seem untouchable. But if those excess pension rises were used to fund social care, we would be changing only how we help our older citizens.

For a longer-term solution, we must examine the broader pensions and tax system. One consequence of delaying the care cap is that for the next five years anyone who withdraws their pension faces the risk that their nest-egg will be snatched to pay for social care. This could be the next pensions scandal. However, it also suggests an opportunity. The Government are reviewing the tax arrangements for pensions. If pension funds are to be truly flexible, surely we can encourage savers to use these savings to support their care needs. Why not make using your pension to pay for social care tax-free? To help create a save-for-care culture, we could offer younger people "care ISAs". We could even cut tax-free allowances for the wealthy to fund incentives for people on lower incomes to save.

Finally, the Government have hinted that they might move to a "tax first, exempt later" pensions policy. This would give an immediate, if temporary, increase in tax revenue. It would make sense to use such a windfall to fund a transition to an integrated health and care service. I would be interested to hear from the Minister if such approaches are being considered in the pensions review. Clearly, finding money in an austere age requires creativity but, as my noble friend Lady Wheeler made so clear, social care desperately needs resources. Last year we agreed on the right ends; this year our ambition must be matched by means.

5 pm

Lord Bichard (CB): My Lords, I declare an interest as chair of the Social Care Institute for Excellence and as a vice-president of the Local Government Association. I want to begin, as others did, by thanking the noble Baroness, Lady Wheeler, for giving us the opportunity to have this debate. It is not only timely; many of us probably feel that it is long overdue.

I hope my new-found friend on these Benches, the noble Lord, Lord Filkin, will not be upset if I say I shall try to avoid using words such as "crises", "disasters" and "catastrophes", though it will not be easy on this occasion. For many of us, the condition of the care sector in this country is one of the most pressing and serious issues facing us at the moment. It has increasingly serious consequences, especially for older people with limited means. As other noble Lords have said, this is a people issue. My worry, quite simply, is that the Government appear not yet to have a convincing strategy for resolving the issue.

Others, not least the noble Baroness, Lady Brinton, have referred to the perfect storm facing the sector. The living wage—necessary though it is to raise the status of care workers—will impact on the economics of care provision. Those now in residential care tend to have multiple, complex conditions which require intensive support. The huge reductions in local authority budgets cut the number of those in receipt of adult social care by 28% between 2008-09 and 2013-14 and forced local authorities to drive down the price they were able to pay providers. What is not yet fully grasped by the great British public is that those who can afford to pay are now subsidising those who cannot. Self-funders are now paying an average premium of 40% for their care.

For all the rhetoric, the vanguards, the pioneers and the ring-fenced budgets, there is still insufficient integration of health and social care around the client. The noble Baroness, Lady Brinton, gave the example of legs. I think she will also remember the example of an assisted bath; is it a social care assisted bath, or is it a health assisted bath? How did we get into this situation?

The CQC has warned that a third of care providers require improvement, while the five largest providers have warned of significant failure in the next two years. These are the facts that have shaped the current reality. It is a reality highlighted recently by the latest survey carried out by LaingBuisson which shows that, for the first time since 1990, in the six months to March, more older people's care beds have closed than have opened, with a net loss of 3,000 places. Every loss—every one of those 3,000 places—increased pressure on a beleaguered NHS. As the noble Lord, Lord Filkin, pointed out, those are the same facts that, this week, led the chief executive of Care England, Martin Green—a man who I know does not overstate his case—to advise care providers to start thinking clearly about how they manage their exit from publicly funded services. Already, three of the largest providers have signalled their intention to exit publicly funded home care. Meanwhile, in the last week, I have met local authority chief executives who are looking seriously at whether they need to re-enter the provider market to protect places.

This is, by any means, a serious situation, but is there a way out of it? Last year, I sat on the King's Fund commission—which has been referred to by several other noble Lords—looking at the future of health and social care. We concluded that the current arrangements were no longer fit for purpose and that there needed to be a single budget for health and social care, with a single commissioner. After all, as the Chancellor said in his Statement in the last couple of weeks, the NHS cannot function effectively without good social care. They are interdependent. We also recommended a commitment to spend 11% to 12% of GDP on health and social care by 2025 and suggested what we felt were very practical ways for how this could be resourced, not least by rebalancing resources between the poorer and better-off pensioners. Again, others have referred to this but we felt clearly that there needed to be further investment in the social care sector. I, too, might ask: what has happened to the Dilnot money?

[LORD BICHARD]

Last month, we revisited our recommendations a year later and reluctantly concluded that things had got worse, not better, and that there was still no coherent strategy to address the problem—not least, the need to stabilise the care support sector. Since we published that follow-up, it is true that the Government have responded by allowing local authorities to levy a precept of 2% to fund social care but, as many others have said, that is nothing like the sum needed to make good recent losses. The poorer authorities with the greatest need will of course not benefit most from that proposal. Again, the need for a convincing, comprehensive strategy is even more urgent.

I said that I would not overstate the case, and I will not. I will merely read the concluding paragraph of the King's Fund commission's most recent report. If we take no action, the future looks like this:

"More people in need receiving no support at all. Fewer people receiving publicly funded social care. Care home providers closing in the face of rising demand ... companies that provide care in people's own homes leaving the publicly funded market. Individuals and families who are unlucky enough to need high levels of care continuing to face enormous, and uncapped, bills. Staff shortages leading to a rise in abuse and neglect as good people"—

and they are good people, who are no longer able—

"to deliver good care. And further pressure applied to the NHS that in turn is likely to lead to declining standards of patient care".

That, surely, is a future that none of us would wish for, but it is a future that is upon us.

5.07 pm

Baroness Dean of Thornton-le-Fylde (Lab): My Lords, I, too, thank my noble friend Lady Wheeler for introducing this debate which, before I make my contribution, gives me the opportunity to rectify an unintended oversight on my part. In the debate earlier today on legal aid, I omitted to declare an interest as an independent member of the business oversight board of the Law Society. I would like to correct that omission now, with my full apologies to the House.

I would also like to declare for this debate that, as in the register, I am the president of the Abbeyfield charity for the provision of residential housing for elder members of the community, founded 60 years ago next year by a young man who came out of the Guards after the Second World War and felt that he wanted to put something back in. He identified that loneliness was a problem we were going to have because of the loss of our young people in the Second World War, so we started what has become a unique charity. We have 8,000 residents in 500 homes, and 4,000 volunteers. Our residents live as a family, independently within our homes, but come together twice a day for their meals. This model is unique.

This debate is about quality and viability. I would like to spend a few moments talking about quality because, as the right reverend Prelate the Bishop of Bristol said, this is really about people. I sometimes imagine what it must be like to work in a care home when we see all the bad stuff in the press, and how stigmatised they feel. Yet day by day, an overwhelming majority are trying to do a decent job working with

older people. But the hidden message in the stuff we get in the press is that these are pretty depressing places.

I certainly agree with my noble friend Lord Lipsey, as I often do, about the image of residential homes too often being the wrong image. When I go into Abbeyfield homes I come out almost walking on air, because the joy in those places, and the way people feel they are living what is the end of their lives, is down to the quality of care they are receiving. It is not surprising that we have the most centenarian people of any housing or care setting. I sign letters of congratulation every month, and so far the oldest person is 110. So quality is important to the lives of these people, and being in the community is essential. We have something called Coping at Christmas, when any older person can come and have Christmas lunch and stay overnight—it is all free. It is about working in the community and it is about people.

Because it is about people, Abbeyfield decided in April last year to pay the living wage. We now have 15% less staff sickness absence and 15% less staff turnover than the average in the care sector. It is not surprising, but it shows the positive effects this can have. Of course, it is expensive and as far as we are concerned the whole sector needs to look at new models, and we need Government support to do that. The financial crisis in the sector—and it is a crisis—is overshadowing everything else good that is going on. We cannot allow that to happen.

We are building five new special dementia homes, which are leading the way. Given the financial crisis, do we go ahead and do that? We do not have any public funding—we are doing it out of our own funds. I am sure we will go ahead, but it raises questions and, as we have heard, there is less provision than there was. We have a scheme called specialist supported housing whereby retired elderly people who do not necessarily have to be in nursing care can be given specialist support, yet it does not qualify for supported housing grant. Why? It is because it is not regarded as a priority. Will the Minister consider supporting more of that? It is cheaper for government but we are not too bothered about that; more importantly, it is cheaper for us and better for our residents. It ensures that they live longer, fuller lives.

For his 95th birthday, we arranged a parachute jump for one of our residents. I could give many such examples. It is important that we do not lose sight of the fact that there is joy in the later years, and it is our responsibility to make sure that people enjoy those years.

The second element of this debate is viability. We need a development programme that addresses the issues that are challenging society, such as demographics, living longer and more people requiring such support. That means looking at different models, not just the standard model we have had so far. The Dilnot report showed the way.

We are often told in debates in this House that we have to agree to a particular policy because it was in the manifesto. Yet this was a central manifesto promise and the Government went back on it within months of being elected. That is unacceptable, and the Minister

needs to answer this point. What happened to the £6 billion that was put on one side to fund this? What is it being spent on? Why cannot it be made available, even if the whole of the Dilnot cap is not to be applied?

This is an important debate that we will continue to have because the issues will not go away. They are not party political issues but issues about our community and the way we treat our older people when they retire. I hope the Minister can answer some of the questions put to him today.

5.15 pm

Lord Sutherland of Houndwood (CB): My Lords, I, too, thank the noble Baroness, Lady Wheeler, for giving us the opportunity to debate these issues, but I have to add the word “again”. My noble friend Lady Pitkeathley smiles at that. She coined a lovely expression in a previous debate; she referred to “the usual suspects” turning up. They are mostly here again; one is even on the Woolsack. The usual suspects are turning up and we have some new friends who will join the band. That is a good joke, but the disgrace is that we have to keep doing it. We have been doing it for more than a decade, often on the same critical issues. I pay tribute to my noble friend Lady Pitkeathley’s analysis of the need for the integration of health and social care services. This is the nub of providing good care. It will not deal with all the financial problems, but I will come back to that in a moment. Here we are again, and I will return to this point.

I should declare an interest as president of Scottish Care, which is the care home owners’ association. I have had briefs from Care England and Four Seasons Health Care. The most chilling part of the brief from Care England has already been mentioned. The chief executive is advising his members to consider the possibility of getting out of public sector provision. That is the size of the problem, and it is frightening.

A year or two back, Southern Cross Healthcare turned up its toes and gave up. The rescue that was mounted by the community of care home owners and groups of care homes was magnificent and meant that many of the clients of Southern Cross Healthcare did not have the great worry and concerns that otherwise they would have had about where they would be the next week and the week after. It was done by the community of care home providers, yet I doubt we could do it today. My first question to the Government is, do they have an analysis of the risks of that happening, of the risk of financial fall-out in the sector for reasons already given and of the risk if people are effectively on the street? I have seen at close quarters one care home close because of a fire. It was horrendous. It was 60 beds having to be vacated virtually overnight, but the troops rallied round. However, the question is, could we do it again?

In the few minutes I have left, I want to focus on viability. There are at least two key factors for viability, in addition to the funding issue that keeps recurring. The viability factors I want to point to are a high percentage of bed occupation and how much is paid for those beds. Unless there is, first, continually a high percentage and, secondly, confidence that the contacts currently being entered into with local authority

commissioners will continue in future you cannot borrow money—it is difficult anyway—and you cannot get investors to put money into the system, so there needs to be both those things as well as adequate funding.

Why are these two factors so important? There is a shortage of cash in the public sector and therefore commissioning from local authorities is falling away. The criteria are tighter, and we have to live with that, apparently. There is also a malfunction in the conjunction between social care and healthcare, as my noble friend Lady Pitkeathley pointed out. We have talked about this for 20 years. In my 15 years in this House, this has kept coming up and yet it has not been solved. Oh, there are steps being taken. We will hear about these, doubtless. But it is not being dealt with adequately.

Let me give one or two facts and figures. We all know about what is referred to as bed blocking. That is at the extreme end of the malfunction, but of course there are many people—again referred to in the debate earlier—who are in hospitals and hospital beds, who neither want to be nor need to be. As for the figures, we have had 20,000 mentioned, 30,000 mentioned; these are the real numbers. This is not good enough. Put alongside that the fact that the 10 largest care home providers in Britain have 10,000 empty beds of high quality and providing nursing care. Those two numbers suggest something, do they not? We have to deal with the problems.

Add to that the further point that a delayed transfer—a bed blocking—will fill a bed that is costing between £1,750 a week up to £2,500 or £3,000 a week, while you can get good care home provision with nursing care provided for between £800 and £1,000 a week. That is half the price. Just put all these numbers together. I am not doubting the capacity of the Minister and his colleagues to count. Indeed the Chancellor of the Exchequer deals a pretty good hand of numbers himself; he could do well in Las Vegas. But actually putting these numbers together suggests obvious ways to go. Why are we not doing that? That will not solve the whole problem but it will begin to deal with the need to provide an adequate quality of care: how people want it, where they want it and how they need it.

5.21pm

Baroness Walmsley (LD): My Lords, I, too, thank the noble Baroness, Lady Wheeler, for allowing us to have this very long-awaited debate. There is so much to say about this issue that one hardly knows where to start. So many excellent points have been made in this debate. I think we all agree with the right reverend Prelate the Bishop of Bristol that this is about people. We must always bear that in mind.

The main point I want to make is that failure adequately to fund social care does not just impact on those people whose needs are currently not being met at all or only partly so, and their families, important though that is. This failure affects all of us now and in future. Although we will not all need social care in future, we all at some time will need the services of the NHS. The failure to deal adequately with social care is already impinging on the sustainability of the NHS and will continue to do so to an even greater extent in

[BARONESS WALMSLEY]

future unless something is done. The Government must not plan on a budget surplus by 2020 if it is at the expense of vulnerable old people in the short and long term, and the viability of our precious NHS which serves us all. It is simply not right and not logical. If they fail on social care, they cannot claim that the NHS is safe in their hands.

As the noble Baroness, Lady Wheeler, outlined, the unanimity among providers about the facts are impressive so there is no doubt about the impact social care cuts are having on services. In a recent survey from the NHS Confederation, 99 % of NHS leaders said social care cuts are increasing the pressures on the NHS and the most prominent impact noted by four out of five of them was the increased time people remain in hospital. This is not new, and many noble Lords mentioned it. For a number of years now, the Government have been alerted to this and yet spending pressures continue to be tolerated. The 2015 spending review finally recognised the funding gap but the remedies are totally inadequate. The *Five Year Forward View* developed by NHS England and the other NHS arm's-length bodies is clear that plans for addressing the NHS funding gap are based on an assumption of social care services being sustained. So the ability of the NHS to make unprecedented savings in this Parliament relies on the Government addressing the social care funding gap. If the Government choose not to close that gap, they are choosing not to support the delivery of the *Five Year Forward View*.

As my noble friend Lady Brinton said, directors of adult social services estimate a £4.3 billion gap by 2020-21. The spending review proposals are unlikely to cover this or the inevitable additional costs of the introduction of the euphemistically named “national living wage”. I absolutely agree with the comments of the noble Lords, Lord Turnberg and Lord Lipsey, about that. Neither will it meet the future growth of demand due to our ageing population. In addition, as we have heard, the Government have back-loaded the better care fund until towards the end of the Parliament. By that time the system will have collapsed—the money is needed now.

Local authorities and social care providers are somehow expected to fill the gap. Many local authorities have prioritised social care. We heard from the noble Baroness, Lady Redfern, about North Lincolnshire. I think that many of us will want to move to Utopia, otherwise known as North Lincolnshire, before we get much older. It currently accounts for 35% of its total budgets compared with 30% at the start of the last Parliament. Spending on adult social care has already been reduced by £4.6 billion, about one-third of the budget in real terms. There is a limit, which we are fast approaching, to how long this can go on.

While all this is happening, vulnerable people are missing out. The reduction in spending has resulted in eligibility thresholds being tightened so that often only the most severe needs are met through state-funded social care. In total, around 400,000 fewer people have their assessed needs met. If they reach crisis point, they will have no choice but to turn to the NHS for support. Then they are more likely to stay in hospital for longer because it is too risky to transfer them home

without the support of social care services. A social worker I know said to me recently that the problem is that social care funded by the state is used mostly by poor people who do not have a voice, and Governments therefore feel that they can get away with not doing anything. That is the impression that the Government's failure to act has given to people out there.

I wish to raise another issue relating to the quality in the sector. I agree with all noble Lords who talked about the importance of quality, especially most recently the noble Baroness, Lady Dean. It is about the new arrangements for funding student nurses. I understand that in order to remove the cap on student nurse places—and, by the way, remove the debt from the Government's books—the Government plan to remove their bursaries and fees and offer student loans instead. We certainly need more student nurse training places since there are already four applicants for every place. However, any expectation that hospitals would pay off the debt of newly qualified nurses who would go to work for them is unrealistic in the extreme. I am told that while there is going to be some scope for NHS provider organisations to reimburse staff for their training, it will be completely at the discretion of that organisation. The group of HR directors that I heard from said that it would happen very infrequently, due to cost. This does not mean that the occasional exceptional candidate may not be reimbursed, but, without funding through the NHS tariff to cover staff training, it would represent an exceptional cost. The expectation is therefore that private healthcare providers and care home operators would not reimburse either, but, again, could do so at their own volition.

Given that the margins in social care provision are so tight, I am concerned that those nurses who would like to work in that sector will have a problem. I cannot see any care home providers being able to offer this pay-off, yet those who provide specialist nursing services really need well-qualified nurses to supervise them or they will not be safe. It is a matter of maintaining quality. What does the Minister suggest is done about this? Following the spending review, there are so many additional costs that will already have to be met by providers of all kinds that I would be very surprised if any of them were able to reimburse a nurse's training costs. These vital professionals cannot expect to be highly paid when they qualify, so where does the Minister think they will get the money for, in effect, an additional 9% on their income tax after qualification? This is short-sighted and will do nothing to increase the number of UK nurses, especially in the lower-paid social care service, where I anticipate the highest impact of this change. If you add all this to the announcement in the spending review that care homes, along with other providers, will have to pay the full cost of their mandatory CQC inspections, you have a system that is ready to implode.

What steps are the Government taking to ensure that the proposed 2% levy per year on council tax in the form of a social care precept will deliver the money required to ensure the right levels of social care and do so equitably? The authorities that need the most additional money have the least ability to raise it through taxes. When will self-funders get some certainty enabling them to plan for their old age? I echo my

noble friend Lady Brinton in asking where the £6 billion saved from the failure to introduce all the Dilnot reforms has been distributed. It certainly has not gone into the social care budget. I am just as curious as the noble Lord, Lord Warner, to find out where this amazing disappearing £6 billion has gone. How will the Government ensure that newly qualified nurses will not be deterred from entering service in the social care sector?

Finally, I am very puzzled about one thing and I wonder if the Minister can help me. All the acute hospitals are in deficit and somehow the Government manage to bail them out. I wonder why that is when they are not prepared to bail out the social care sector. Perhaps it is because they have already spent the money and, of course, next year some of the extra money already announced for the NHS will have to go towards next year's projected deficit as well. Perhaps it is because local authorities and private and voluntary care providers cannot spend money that they have not got and therefore it cannot be refunded. However, it occurs to me that if the Government were prepared to spend that couple of billion pounds every year doing something about social care then maybe we would not have such a big deficit in the NHS at all.

5.31 pm

Lord Hunt of Kings Heath (Lab): My Lords, it is a great pleasure to wind up for the Opposition and to thank my noble friend. It has been an excellent debate; a number of very challenging questions have been put to the Minister and we look forward to his response. There can be no doubt that the viability of the residential care home sector, the failure to implement Dilnot and the failure to raise the means test are causing great anxiety to thousands of people and their relatives throughout the country. As the noble Baroness, Lady Walmsley, said, the lack of viability of the residential care sector is but one part of what one has to say looks increasingly like a dysfunctional health and social care system.

When the Minister replies—because he has done it recently—he will no doubt talk about the Autumn Statement, ministerial vision and the potential of the new models of health and social care that the Government are putting an awful lot of eggs into, without, I have to say, any evidence that they will be able to enable a response to the challenges. The gap between ministerial rhetoric and reality is striking. There is no problem with a five-year forward view. This vision is described as empowering patients, their families and carers to take more control over their own care and treatment. It is a future that truly integrates health and social care, at last puts mental health on a par with the rest of the system and, crucially, prioritises prevention. That is a fine vision and, in the absence of any vision for social care, I assume it is the Government's statement of social care policy as well.

However, it is impossible for me to see how that will happen in the context of a Government determined to bring the share of government spending down from 41% to 37% of GDP. It is always good to wait until a few days after an Autumn Statement to get the real analysis of what is happening in spending. The analysis I have seen from the King's Fund is that for the next

five years the actual growth in the health service will be 0.85% per annum. So we are just continuing the misery of the last five years. We know that the historic growth level in the NHS is 4%, and that is what is needed to meet these challenges. It is striking that, of the much-vaunted extra £8.4 billion, £4.6 billion has come from other parts of Department of Health expenditure, including Health Education England, the nurse bursaries, capital and public health. You also have to add in the £1.1 billion of pension costs due to the changes in the pension rules from next April, for which no additional money has gone into the health service.

The King's Fund projection shows that in this five-year period social care will be left with an annual cut of 0.3% per annum. Therefore, even though it is back-loaded, it is starting off with a very challenging situation. There is then the cost of the living wage to be added to the negative growth. I cannot possibly see how the health and social care sector can meet the challenges of the demographics that it is facing, with the huge population growth that we have seen in the last 10 years projected to increase by another few million over the next 10 or 15 years, as the noble Lord, Lord Filkin, said.

When it comes to the residential care sector, there is no need for me to repeat the figures that other noble Lords have referred to, but I thought that the ResPublica report got it in a nutshell when it talked about the unsustainable combination of declining real-terms funding, rising demand, increasing financial liabilities, a funding gap of £1 billion by 2021, the potential loss of beds and, of course, the knock-back impact on our National Health Service. I had not seen the advice from Care England. That advice is very sobering indeed when it comes to the whole viability of the residential care home sector.

It seems to me that the result of all this will be that, far from the models being implemented, we will see the perverse incentives mentioned by the noble Baroness, Lady Brinton, getting worse and worse because of the tension between the free-at-the-point-of-use NHS and means-tested social care. That is why integration is so difficult. Until we get to grips with that divide, we will never achieve integration of services. As my noble friend Lord Turnberg said, NHS hospitals are the providers of last resort. If the residential care sector goes down, residents will end up in NHS hospitals. I remember those dreadful long-stay wards that NHS hospitals used to have, and I am afraid that they will be recreated unless we can sort this problem out. Many reports are coming out but one report produced today by the Nuffield Trust shows that 3.6% of patients took over a third of all bed capacity in acute hospitals, and the trust expects the position to worsen in the years ahead. That is the challenge that our system faces.

There are about 10 questions from my noble friends to which the noble Lord, Lord Prior, is being asked to respond. The first, on the positive side, was asked by my noble friends Lady Dean and Lord Lipsey. Can we increase public awareness of the importance and success of many parts of the residential care sector and the good work done by the staff? My noble friend Lady Dean gave a wonderful example of the sector working at its very best.

[LORD HUNT OF KINGS HEATH]

The second concerns the general view that, essentially, the care cap will never be implemented. Can the Minister say that it actually will be implemented, and when? Thirdly, does he agree with his noble friend Lord Lansley about the sense in going back to Dilnot's original recommendation about the size of the cap? A number of noble Lords mentioned the £6 billion. Noble Lords look quizzical whenever it is mentioned, but that figure has appeared in government papers and projections. I think we are right to ask what on earth has happened to it.

The noble Lord, Lord Sutherland, asked what analysis the Government have made of the risk of closures. What are their contingency plans? How will we avoid the dreadful situation of very frail older people having to be moved from one home to another, which we know can have appalling effects on life outcomes? When will the means test limit be increased as promised? The Government made a deal. They made a deal with people that the care cap would come in in 2016 and that the means test would be increased. Many people made financial provision on that basis. Surely the Government have a moral responsibility here to deliver what was promised. Does anyone remember the Prime Minister saying no one would have to sell their home? What has happened to that?

There are two final things. First, my noble friend Lord Bhattacharyya asked about incentives to encourage people to build up funds for their care. What has happened to the much-vaunted insurance market? It was supposed to come to the rescue and be complementary, in a sense, to the introduction of the care cap. Finally, and overwhelmingly, my noble friends Lady Pitkeathley and Lord Turnberg and other noble Lords talked about the need for a coherent, long-term strategy. Either we go into absolute crisis in the next year or two, with huge knock-on impacts on the rest of the provision of health and social care, or the Government have to get a grip and actually start going for a long-term strategy. I hope the Minister will announce that tonight.

5.52 pm

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con): My Lords, I am slightly relieved—the noble Lord, Lord Hunt, said he had 10 questions but he got to only six, I think.

I thank the noble Baroness, Lady Wheeler, very much, as other noble Lords have done this evening, for securing this important debate. I think we will be having this debate fairly regularly over the course of this Parliament, and we should, because lots of ideas come out of these debates, which I can assure noble Lords are taken very seriously. I shall pick out a few points at the beginning.

Many noble Lords, including the noble Baroness, Lady Wheeler, mentioned Four Seasons, about which there has been publicity. I cannot comment on that particular case, but the CQC's market oversight function means that it is looking at the finances of all these large care providers very closely and if it has a concern it will liaise confidentially with local authorities.

The noble Baroness, Lady Wheeler, also talked about the spending round. I think it is worth saying,

despite the apocalyptic comments from the noble Lord, Lord Hunt, that this was very much welcomed by Simon Stevens, chief executive of NHS England, who felt that it was a good settlement. Although the King's Fund, the Nuffield Trust and others have been quoted, on balance, most independent commentators feel that this was a better settlement than we had a right to expect.

My noble friend Lord Lansley made an important contribution and reminded us of the importance of the Care Act. He thanked Paul Burstow, as did other noble Lords, for his important role in that Act. He talked about integration and personal budgets, which are a very important aspect of the future strategy. Noble Lords have asked about the future strategy. Personal budgets and integration will be very important parts of any future strategy. He also mentioned the Dilnot situation. I will come back to Dilnot, if I may, a little later.

The noble Baroness, Lady Brinton, talked with passion about the care her mother had received over 10 years. This is important, and others have mentioned it as well. In her mother's case it was a combination of domiciliary care, residential care, respite care and NHS hospital care. When it works, it works incredibly well and we need to be careful in talking about the undoubted problems in this industry, which we all know of. Many providers of residential healthcare and many staff who work in that industry do a fantastically good job. The noble Baroness referred to the better care fund, which is a big stake in the ground and is bringing together funds from the health sector and from social care. Pooling those funds is the right way forward.

The noble Lord, Lord Turnberg, talked about the dependency of the healthcare sector on social care and vice versa, and how looking at the two in isolation made no sense at all. He asked about our response to David Dalton's report on the development of chains and more integrated care. I can tell him that three of the vanguards are proceeding very much along the lines described in David Dalton's report. I would refer also to the devolution that is happening in Manchester, where there are some serious comings together, not just within healthcare but between healthcare and social care. Devolution, again, will be a big part of any strategy as we go forward.

The noble Lord, Lord Filkin, had a number of concerns—in particular about the future supply of a skilled workforce. I believe that the national living wage and the care certificate that came out of the Cavendish report will both be helpful in improving the opportunities for staff in the sector. He referred to the hidden misery in social care, which other noble Lords have also mentioned, and I think that it is true that the NHS, because of its greater exposure and the love that the people of this country have for it, gets the lion's share of available resources going into health and social care, which is something that we need to be conscious of. It is certainly something of which Simon Stevens is particularly conscious.

The right reverend Prelate the Bishop of Bristol importantly reminded us that statistics are all very well but these statistics are all individual people. He said that he looked out over Winterbourne View,

where there was appalling care. Of course, that was not a result of lack of resources but the result of a rotten culture in that organisation. He also talked about family disintegration. He said that residential care is sometimes regarded as a place of last resort, whereas, as we know, much residential care, far from being a place of last resort can be a wonderful place for people to spend the end of their lives.

My noble friend Lady Redfern talked about the reality of the Care Act in north Lincolnshire and filled us all with some hope that it can be made to work and that the community can come together. She talked about the five community well-being hubs in north Lincolnshire and the better care fund being used to bring together social care and healthcare, and the importance of partnership working, including housing, which other noble Lords have mentioned.

Earlier this week, an interesting speech was given by Duncan Selbie, the chief executive of Public Health England, who said that when it comes to health the NHS touches just the top of the pyramid, but, actually, health comes from employment, education, a prosperous economy and, of course, good housing. The noble Lord, Lord Lipsey, raised with me separately his views on how we might be able to reallocate some of the money currently going through CHC, which is something officials are looking at. I can assure him that it has not been lost and we are looking at it. The noble Lord is very concerned about the postponement of Dilnot. I will come back to that subject in a minute. He also mentioned "Alive, Alive Oh!"—Diana Athill's story of when she went into residential care, and how that is sometimes a remedy for loneliness and lack of support. Of course, good homes where there are good levels of activity and high levels of comfort can be wonderful places to live.

I think the noble Baroness, Lady Pitkeathley, said that she had been working, or involved, in the care industry for 40 years, and had been in this House for 18 years. She reminded us that, looking back on what those local authority homes were like 30 or 40 years ago, many of them were terrible. The split between commissioning, or purchasing, and provision has undoubtedly been a very good thing, in the main, and things are a lot better than they used to be. The noble Baroness also reminded us that for the 18 years she has been in this House we have been talking about integration—yet in her view we are still waiting for it. I respond to that by saying that the five-year forward view is a big step towards greater integration between health and social care.

The noble Lord, Lord Warner, raised a number of important issues. I shall have to pick out some of those and write to him later. In particular he talked about the fragility of the big providers and the problems in care homes. One of the things that the CQC market oversight does is to try to identify early some of the problems that may arise, such as those that arose at Southern Cross in the past. He also said that it is one thing to identify a financial issue ahead of time, but the question is: is there the capacity in the industry to pick up the fallout from the collapse of a major provider? The noble Lord, Lord Sutherland, also raised that point.

The noble Lord, Lord Bhattacharyya, raised a number of points about the importance of the million unpaid carers. He also asked, importantly, whether we could be more imaginative about financial products—whether those be care ISAs or other savings and pension products—which could help to meet the undoubted need for more funding in this sector.

The noble Lord, Lord Bichard, who as chairman of SCIE has a profound knowledge of social care, also talked about integration. He said that a third of the places inspected by the CQC are deemed to require improvement. It is important that at least we know that fact. This has not suddenly happened. We know this now because of the CQC inspection regime, which, particularly in social care, has been very much welcomed by the industry. The noble Lord said that Martin Green was not someone who overstated his case. But I think that occasionally Martin Green has been known to overstate his case; he has certainly done so to me in the past. However, his words of warning about the local authority-funded residential care market, as distinct from the self-funded care market, are not to be dismissed.

The noble Baroness, Lady Dean, talked about Abbeyfield—a wonderful care group—and the joy she feels when she walks out of one of its homes. She also mentioned an investment in five new dementia care homes. May I write to her about the particular issue that she raised about funding supported housing? I cannot give her the answer today, but I will write to her after the debate. She also made the interesting point that since higher wages have been paid to staff, sickness absence and staff turnover have both come down. Low wages and high turnover of staff have dogged this industry for years, with all the knock-on effects on continuity of care and training, so there is quite an important message there.

The noble Lord, Lord Sutherland, referred to the usual suspects. This debate has been well attended by the usual suspects and a few others. I suspect that the band of usual suspects will grow, rather than diminish, over the next five years. He made an interesting point about the number of empty beds in the nursing home and care home sector at a time when there are so many delayed discharges or people who should not be in acute hospitals. It is overly simplistic to say that there are 10,000 empty beds in that sector so we could therefore have 10,000 patients out of hospitals who could go into those beds. The fact is that those beds are often not the right kind of bed. They do not have the right nursing care around them or they are in the wrong place. Nevertheless, there is plenty more scope for acute hospitals to work much more closely with the acute sector.

I will pick up the points made by the noble Baroness, Lady Walmsley, and the noble Lord, Lord Hunt, in my speech, but I will write to the noble Baroness on the nursing care issues in particular. I would rather do that.

First, why have we postponed Dilnot? I must say that it is a postponement. We will come back to Dilnot in this Parliament. To be completely frank with noble Lords, it was postponed because it was felt that it would be too expensive to implement it now and that it would put too much pressure on local authorities.

[LORD PRIOR OF BRAMPTON]

One of the priorities of this Government is to reduce the budget deficit and start repaying the debt that has accumulated over the years. Noble Lords may not like that very much and might have a different view from that, although it was the view of the coalition Government. That is our view and that is why it has been postponed. It does not alter the fact that the Government believe that the Dilnot report was outstanding and we accept the vast majority of its recommendations. Indeed, our decision to delay those reforms was welcomed by many in the sector. The Local Government Association in particular and others welcomed our decision as a real example of the Government listening to their concerns about introducing significant reforms at a time of financial challenge for local authorities.

I think the noble Lord, Lord Hunt, said that we like to blame local authorities—he says it was not him; someone said it. On the contrary, part of the Government's strategy is to devolve more power and responsibility to local authorities. By delaying, we allow local authorities time to focus on delivering the important reforms to care and support under the 2014 Act, which came into force on 1 April this year, putting in the necessary groundwork to implement the funding reforms as successfully as possible in 2020.

The grant funding of £146 million made available in 2015-16 to support implementation of the cap prior to delay will remain with local government. I assure noble Lords that the decision to delay implementation was not taken lightly. The recent spending review reaffirmed our commitment to implement these reforms in April 2020, making funding available in 2019-20 to help local authorities to prepare for implementation.

I turn now to quality and the workforce. Delivering the outcomes that people want and need would not be possible without a sustainable care home sector capable of delivering quality care. We are taking steps to support the sector to continuously improve in this area. Noble Lords will be aware of the Care Quality Commission's new inspection regime and will know that we are investing £115 million this year to support the training and development of the care workforce, including a national programme of support for registered managers, who play such a vital role in ensuring the quality of care homes.

I have talked about the CQC's market oversight role, which is an important new development, and at other times I have talked about the importance of the new vanguard programme. I refer in particular to the six enhanced health and care home vanguards, where we now see GPs doing ward rounds around care homes and a much more integrated model between healthcare and social care.

I will just say a little bit about the money. Noble Lords will know that the Government are giving local authorities access to £3.5 billion of new support for social care in 2019-20. From April 2016, councils will be able to introduce a new social care precept, allowing them to increase council tax by 2% above the existing threshold. This could raise nearly £2 billion a year for social care by 2019-20. A number of noble Lords, including the noble Lord, Lord Warner, asked about smoothing payments and we will have to address that

issue. I must apologise that I do not have time to finish what I wanted to say because of all the issues that have been raised. I wonder if it would be acceptable if I wrote to all noble Lords who attended this debate with what else I wanted to say and just apologise that I am timed out.

6 pm

Baroness Wheeler: My Lords, I thank noble Lords for their contribution. I said in my speech that their experience and insight would produce a very thoughtful and thorough debate and a comprehensive picture of both residential care and the wider social care, and that proved to be the case. It is important to develop a clear view of the role we want the residential care sector to play in integrating social care and I hope this debate has helped that, particularly across the care pathway. There were a number of speakers on that theme. We have debated these things a number of times but this is the first time we have focused on residential care and I think that has been very helpful. Many noble Lords stressed that this debate was about people. My example of my local carer was very much in that vein and other noble Lords gave examples of good care in their own experience. That is very valuable and it is well to remember that. CQC underlines that there are many well-led homes that are caring, safe and efficient with trained and dedicated nursing and care staff, but equally it gives the other side of the picture and the problems that we need to address.

I thank the Minister for his thoughtful response. He did not have a chance to reel off some of the statistics I was expecting. I was particularly looking out for his comment on the assessment from the noble Lord, Lord Warner, that we have seen only £70 million of the £6 billion that was to be introduced for the social care cap. I did not hear that but he is going to write to us and that is very welcome. I was a bit disappointed that he was not able to give us some reassurances on the monitoring that is going on of Four Seasons and other care homes. I understand the need for confidentiality but I think we need to be reassured that the Government are keeping it closely under review, particularly the issue of replacement care. On the care cap, I am glad it is still a postponement. The Public Accounts Committee has called for an urgent and clear timetable on implementation and I think the Government ought to take heed of that. In my view the overall debate has shown the clear need for a strategic, ambitious, forward-looking strategy and I am pleased the majority of noble Lords supported that. With those comments, I beg to move my Motion.

Motion agreed.

Financial Stability: Central Counterparties *Question for Short Debate*

6.02 pm

Asked by Baroness Kramer

To ask Her Majesty's Government what assessment they have made of the possible threat to financial stability from the risks concentrated in Central Counterparties.

Baroness Kramer (LD): My Lords, I have sought this debate in order to understand from the Government their assessment of central counterparties, the extent to which CCPs mitigate risk, but also the extent to which their inherent character of concentrating risk can in itself amplify financial instability.

A CCP is an entity that interposes itself between counterparties to contracts traded in financial markets, becoming the buyer to every seller and the seller to every buyer and thereby guaranteeing the performance of open contracts. In a sense CCPs act as a firewall, enabling multilateral netting among clearing participants, reducing credit exposure, offering operating efficiency and also providing anonymity, which some believe increases liquidity in the system. At the moment a transaction is initiated, the CCP has no market risk—the book is matched. But prices change rapidly and constantly and CCPs cover such exposures primarily by requiring collateral. I shall say more about collateral in a moment.

The primary use of CCPs is to clear derivatives contracts and one of the reforms by regulators following the financial crash of 2007-09 was to make the use of CCPs mandatory for the clearance of standard over-the-counter derivatives. I fully recognise that this has brought transparency and some order to an opaque and chaotic system and offers greater protection to counterparties. The last financial crisis was far worse because no one knew to whom anyone had exposure.

However, by definition, the concentration of risk within a CCP is itself a systemic risk. The daily global exposure in CCPs is estimated to be in the trillions of dollars but no exact tracking is available. Default potentially affects not only national but international financial stability. CCPs are linked by an extensive cross membership; the major global banks belong to virtually every CCP. Interoperability arrangements between CCPs enable members of one to clear transactions without opening accounts in the other. CCPs are often part of a larger financial group, and firewalls between group members are not necessarily complete. According to the Bank for International Settlements in its quarterly review this December, this growing interconnectedness raises the question of whether CCPs might spread losses in the case of defaults or intensify deleveraging pressures in ways that add to systemic risk.

As for the UK, the Bank of England, which took over supervision from the FSA in 2013, supervises some of the largest global players, including LCH. Clearnet Group and ICE Clear Europe, while a number of major and minor CCPs incorporated overseas also operate in the UK. Our exposure is multicurrency and so requires the Bank in extremis to be able to access liquidity in other currencies, especially the euro. It is part of our global financial services industry rather than support to our domestic economy.

This House discussed CCPs and the risk they present in the debates on the Financial Services Act 2010. During that debate the Government took the position that default risk could be contained by a risk waterfall of cascading lines of defence. The first line of defence is collateral, required through both initial and variation margin calls. However, the noble Lord, Lord Sharkey, and I, in 2012, raised questions both about the inherent quality of collateral and the competitive pressures on

CCPs to take a more lenient view of both collateral quality and margin requirements. There is not enough high-quality collateral in the globe to meet the margin requirements of CCPs. Therefore lower-quality collateral is improved by being bundled and then given a haircut—that is, discounted. This may remind your Lordships of some of the financial instruments implicated in the 2007-09 crash: it is susceptible to abuse. CCPs around the globe compete fiercely and there is always a risk that this can lead them to compromise the quality and levels of collateral.

The collateral demands of CCPs will, by definition, move with, not counter to, an economic cycle. This means that both initial and margin calls increase the volatility of prices of collateral, such as sovereign bonds, which in itself can amplify financial instability. CCPs hold vast amounts of their collateral in major banks. As we know, no major bank is ever totally safe from failure and so another risk is added. This risk increases because many clients, to reduce their costs, permit the CCPs to on-lend or invest the collateral. At present, these collateral-related issues are not transparent. Are the Government attempting to remove the mask not only domestically but globally?

If collateral is insufficient, the second line of defence is a cascade of reserve or guarantee funds contributed or committed by members of the CCP as a condition of their membership. Your Lordships will understand that these are thinly capitalised entities. The cascade varies by jurisdiction but essentially begins by tapping the defaulting member and, if that is insufficient, calling on the other members of the group. In the Financial Services Act 2012, the Government allowed members' exposure to such mandatory contributions to be strictly limited—not unreasonable—on the assumption that no member could survive with unlimited liability. However, we do not know how sufficient the barriers really are. CCPs in the UK are also required to put in place recovery and resolution plans to protect the taxpayer in the event of failure. Can the Government tell us how advanced these plans are?

I am sure the Government would agree that, with so many questions and given the consequences of a failure, stress tests for CCPs are crucial. Will there be transparency around such stress tests? Will the criteria and performance results be public? Since a failure in one jurisdiction can so easily contaminate another, can we be assured of a global standard of risk protection and co-operation among regulators?

While I have raised the risks of CCPs, I recognise that there are significant risks in the non-standard transactions, especially the non-standard derivatives transactions, that sit outside them. Is the regulator succeeding in persuading the industry to deconstruct complex trades so that they can be cleared on the CCPs? I realise that the regulators are requiring banks to hold additional capital for unclear trades, but many of the players are commodity companies, especially oil companies, and these are just as capable of infecting the system. Additionally, these non-standard trades are increasingly taking place in dark pools. Are we sure that enough is happening in the light both for proper risk management and for proper price discovery to take place?

[BARONESS KRAMER]

We are also in an era where we begin to see the disintermediation of the traditional financial service players. Block chain will in effect dislodge all the current post-trade architecture and may well eliminate CCPs altogether, but block chain raises issues of its own. Transparency is particularly important in block chain, but we cannot see, for example, what is happening in a vital market like China—the great firewall of China, as I understand the industry calls it. That surely is untenable. While block chain has the potential greatly to reduce risk, its key feature, which is the dispersal of data, raises serious new jurisdictional issues. Who is in charge in a crisis? Will the Government update us on how they are addressing the development of block chain and the trading architecture, how they view the associated issues and how they are considering the transition from the current architecture to the new?

The inconvenient truth is that in a major financial crisis, if two or three major banks were to fail, all the defences offered by CCPs would be overwhelmed, rather like the flood defences in Cumbria this week. We need to know how high the financial flood walls are. I look forward to hearing much more from the Government on stress tests, on transparency and on recovery and resolution plans. I hope that in this debate, the Government will answer our questions on CCP governance, collateral quality, capacity for loss absorbency, potential for contagion and international co-operation. There is a danger that CCPs are a two-edged sword, dampening risk in modest crises but amplifying risks in high crises.

6.12 pm

Lord Sharkey (LD): My Lords, I am indebted to the Bank of England for its publication *Central Counterparties: What Are They, Why Do They Matter and How Does the Bank Supervise Them?*. I am glad to see that the Minister is similarly indebted. This report sets out the merits of CCPs and it also sets out, very clearly, the risks associated with them.

There are three main risk areas. The first is the systemic impact of a CCP failing. The failure of a large CCP could act as a channel of contagion, resulting in significant failures elsewhere in the financial system. The second risk is that CCPs may act as amplifiers of other systemic shocks. In some cases, CCPs may produce procyclical effects by exacerbating other stresses. For example, increasing initial margin requirements in response to high price volatility may force members to liquidate positions. In an illiquid market, this would only increase price volatility. The third risk concerns inadequate solvency, the ability to meet short-term margin calls and the operational reliability of CCP members. All these risks are well known and appear to be well defined.

What is perhaps less clear from this rather bloodless and technocratic language is the potential scale of these risks, and the extent to which these risks are fully understood. In January this year, the IMF published a workshop paper entitled *Central Counterparties: Addressing Their Too Important to Fail Nature*. This paper estimated the market size of open, over-the-counter derivative trades at \$293 trillion. Some 95% of these open trades were concentrated in the top five CCPs.

These are truly gigantic numbers and truly gigantic interdependencies. It is easy to see how failure could bring down the financial system. It is easy to see why the IMF workshop paper describes these CCPs as “too important to fail”. In fact, it singles out LCH.Clearnet Group and CME in particular because they also operate CCPs in the exchange-traded or equity markets.

In fact, 59% of turnover in exchange-traded derivatives and 78% of equity trades go through the top five CCPs. This is concentration on a very grand scale. I acknowledge, of course, that the G20 brought about this concentration deliberately as a response to the post-Lehman events and that it did so for a very good reason. Nevertheless, the scale of the concentration certainly focuses the mind on the need to prevent failure or at least to properly mitigate risk.

In the view of the IMF workshop paper, four risks are not yet mitigated. The first is the composition of the risk waterfall, referred to by my noble friend Lady Kramer, and the fear that loss-sharing arrangements may be a source of contagion for surviving clearing members. Secondly, the dependency of CCPs on only a few commercial banks for liquidity, custody, settlement and other services can put the CCP and surviving members under severe pressure. The report notes:

“If the defaulting clearing member is one of the contracted service providers of the CCP, the surviving banks may have to step in, placing them under significant pressure. At the same time, the ability of the CCP to manage the default can be significantly weakened by its dependence on those banks”.

Thirdly, collateral sales by multiple CCPs may increase market volatility. Fourthly, the diverging interests of authorities in a globally cleared market may present a problem. If the authority in charge of supervising a CCP is not from the same country as the authorities in charge of the banks, international co-ordination would be very difficult to achieve during distress. Does the Minister agree that these risks are not yet mitigated? If he does, can he tell us how we are progressing towards mitigation? In particular, what progress are we making in reducing risks relating to the interconnectedness and interdependencies of CCPs?

As my noble friend Lady Kramer mentioned, the latest quarterly review from the Bank for International Settlements also turns its attention to the issue of risk and CCPs. It notes, almost in passing, that:

“The competitive dynamics in the CCP industry may work against a strengthening of capital buffers”.

It says that CCPs are for-profit companies and,

“are strongly motivated to generate revenues by expanding their product offering and capturing market share. However, new products could bring incremental risk, which clearing members may end up bearing if the CCP does not increase its capital commensurately”.

This worry is not raised explicitly by the Bank of England or the IMF workshop. Does the Minister think that this is a real concern? If so, what are we doing to mitigate it?

The BIS report concludes by restating some of the benefits of the very rapid shift to central clearing, but says clearly that this shift may give rise to other systemic risk, in particular that,

“the concentration of the risk management of credit and liquidity risk in the CCP may affect system-wide market price and liquidity dynamics in ways that are not yet understood”.

It says:

“It is possible that CCPs can buffer the system against relatively small shocks, at the risk of potentially amplifying larger ones”.

This is obviously an absolutely critical issue. Does the Minister agree with these two points? If he does, can he say how we are working on these issues?

The concentration of risk into CCPs—its benefits and potential downsides—is clearly the focus of a great deal of thought and discussion. I have the distinct impression that there is a reasonably settled consensus about the questions that need to be asked, but no settled consensus as to what the answers may be. Clearly, the debate is still vigorously proceeding and has the air of a work in progress. For example, in September, a group of 24 US banks, rather confusingly calling themselves The Clearing House, wrote to regulators criticising inconsistencies in the risk governance of central counterparties and called for tougher minimum standards. Their letter set out demands in three areas. The first was that CCPs should maintain risk committees with consistent minimum standards. The second was that CCPs should be obliged to consider feedback from clearing members about material risks. The third was that the records of communication between CCPs and clearing members that are the subject of material risks should be properly maintained.

I find all this quite alarming, as the obvious implication is that none of that is in fact happening at the moment. I am conscious that I have asked the Minister quite a lot of questions already but I would like to ask one more. Does he agree with the banks’ three demands, or do we already apply these standards to CCPs in our jurisdiction?

There is, of course, always a tension between regulation and growth—too much of one; not enough of the other. Are we getting the balance right? There is a very old Woody Allen joke about this quoted, rather surprisingly, in the *Financial Times*. The joke is about a man who cannot have his brother—who thinks he is a chicken—treated by a psychiatrist, because the family needs the eggs. Is the regulation of CCPs somewhat in the same position?

6.21 pm

Lord Tunnicliffe (Lab): My Lords, I, too, thank the noble Baroness, Lady Kramer, for tabling this debate. Central counterparties are fast becoming one of the most central components of the financial system in the UK. I hope that the Minister will be able to reassure the House that the Government recognise this and are taking proactive, effective steps to alleviate systemic risk.

As has been highlighted, while there are clear advantages to central counterparties, there are also high risks. This is not a new phenomenon; indeed it describes the day-to-day practice of many involved in financial services. However, CCPs present a number of different challenges. While the finance industry is intrinsically a risk management environment, global markets are still incredibly vulnerable and the scale of expansion of CCPs, if not managed properly, could present a threat to the UK economy.

In 2009, the G20 made a commitment that all standardised, over-the-counter derivative contracts should

be traded on exchanges or electronic trading platforms and cleared through CCPs. This was one of the many responses felt necessary in the light of the events of 2007-09. It has subsequently increased the recognition of the importance of the role of CCPs in the financial system the world over. In August this year, the European Commission gave the green light to the proposals which will be phased in over three years. Although I am encouraged that a deal has been done, can the Minister explain the five-year gap between the final decision and the Pittsburgh summit?

CCPs’ growing prominence in the financial sector is undeniable. As of January 2015, 50% of the global over-the-counter interest rate derivatives market were centrally cleared, compared to 31% in April 2012. Last month, the Governor of the Bank of England, Mark Carney, stated that the “too big to fail” era for banks had been solved. He announced reforms which meant that the world’s top 30 banks should ensure they hold enough capital to absorb any losses incurred.

In a working paper, the IMF states that we are getting to a point where, due to the highly interconnected nature of CCPs with financial institutions and markets, they are almost becoming too big to fail. Only a few weeks ago, a senior official at the Bank of England questioned whether clearing houses could rely on unfunded commitments from member firms. That would mean that funds would have to be replenished in a period of stress. While there are clearly mechanisms in place, most notably the “default waterfall”, there are obviously still key concerns about how CCPs can be better managed. I would be interested to hear from the Minister the Government’s assessment of how the “too big to fail” concept relates to CCPs.

We fully recognise that there have been a number of notable steps taken by this Government and by the Bank of England to mitigate the risk associated with CCPs, not least the decision to give the Bank responsibility for the supervision of CCPs. This has meant that it is more difficult for CCPs to underinvest in the migration of risks to the wider system. It is vital that the Bank continues to perform this function in the public interest. CCPs should never lose sight of the implications of what could happen if they went into insolvency.

The quality of those who manage CCPs must be beyond doubt. The Minister will know all too well that in this House we are currently debating the certification regime for senior managers in the financial sector. Has such a scheme, statutory or not, been considered in this context? The Bank of England acknowledges that one of the ways in which it can mitigate risks associated with CCPs relates to ensuring that there is a stronger user representation in financial market infrastructure governance. Surely that is another way in which CCPs would become more mindful of their broader remit. Can the Minister give me a breakdown of the various forms of representation, in particular the number of independent directors on both the boards and risk committees of the major CCPs?

I turn to the formal assessment structure in place to oversee the work of CCPs. While the Bank has a supervisory function, the CCPs are not bound by regulation. The Bank says that self-assessment is not self-regulation, as the CCPs’ self-assessment does not

[LORD TUNNICLIFFE]

replace the Bank's own judgment but is used as one input to its supervision. Can the Minister say what advantage the CCPs' own assessment of their working brings to the Bank's supervision?

The Bank of England states that:

"A CCP should demonstrate that its governance and decision-making processes reflect the risk management purpose of the institution. This means having adequate regard not only to the management of microprudential risks to the institution itself, but also the interests of the financial system as a whole".

I would be interested to hear whether the Minister could ever conceive of a time when we move from "should" to "must". Finally on this point, in the Bank's incredibly helpful note outlining the CCPs' function, which we have obviously all read, it states that it is in the process of introducing more structured reporting of CCPs. I was wondering whether the Government had any information on a timetable and what form these publications will take.

I will briefly touch on the importance of international co-operation, particularly with regard to our EU partners. In December 2014, clearing members established outside the European Economic Area accounted for 39% of the initial margin requirement at UK CCPs. Co-operation is key. As the Bank of England has acknowledged—rightly, in my view—there are terrific benefits to be had from,

"working with the relevant international authorities",

and,

"going beyond the minimum levels of co-operation".

However, as the IMF white paper points out, one of the remaining risks is:

"Diverging interests of authorities in a globally cleared market".

This means that we need constructive engagement with partners across international bodies, including in Europe. Do the Government agree and is this a priority for them?

European Market Infrastructure Regulation and the associated technical standards constitute a significant body of detailed standards against which supervisors must assess CCPs' compliance and, related to which, they should report information and assessments to EMIR colleges. We understand that the Bank is continuing to implement the new CCP supervisory framework established by the EMIR. Given all this, and in light of the IMF's warning that risks are increased when diverging interests are at play, what are the Government doing to ensure that these various regulatory regimes are working together?

As of March 2015, the Bank of England had exercised only its statutory powers to gather information over the last year, rather than using any sanctions. While it says that it intends to conduct reviews, I would be interested to know in what areas they will be conducted, who determines the topic, scope and content of these reviews, and how these reviews would help us to understand and pursue the means of lowering the risks?

I thank the noble Baroness, Lady Kramer, for bringing up this subject. It is one that does not have much saliency. It is very useful that this debate has forced the subject on to the agenda. The noble Lord, Lord Sharkey, was right in using the rather gentle word "concern" and then perhaps moving more realistically to the

word "alarming". This is an inevitable development of our ever-developing financial structure and it is important that the Bank of England and Government get on top of the issues as quickly as possible.

6.30 pm

Lord Ashton of Hyde (Con): My Lords, I think I shall have to talk quickly. I, too, thank the noble Baroness, Lady Kramer, for securing this debate and other noble Lords who contributed. It has been an important and rather select debate on a fairly technical subject. That being so, I will try to pick up a number of points made by noble Lords, but if I do not cover them I will check to see whether I need to write with a more comprehensive answer. In particular, I might have to write to the noble Lord, Lord Sharkey, on some of his points.

As today's discussion has highlighted, central counterparties, or CCPs, are critical parts of the financial infrastructure. Their purpose is to stand between the counterparties trading a financial instrument, guaranteeing that if one of those counterparties defaults on its obligations, the other will receive what it is due. They perform the function of a firewall, preventing contagion and increasing market confidence. They are more important than they have ever been, as has been noted. In 2009, the G20 agreed to mandate the use of CCPs in over-the-counter derivatives as appropriate. Fifty per cent of the global over-the-counter interest rate derivatives market—the largest segment of the OTC derivatives market—is now cleared through CCPs.

This is one of the key post-crisis reforms, which the Government fully supports. Its implication, as noble Lords have recognised, is that CCPs are increasingly systemically important. Therefore, I would like to set out the steps that have been taken here in the UK to ensure their resilience and that—in the unlikely event of a CCP's failure—the authorities have the powers to step in to minimise the impact on financial stability.

As noble Lords will be aware, the coalition Government acted as soon as they came into office to overhaul the UK's regulatory architecture, and a key part of this was to put the Bank of England in charge of the supervision of financial market infrastructures, including CCPs. The Bank of England has met this new responsibility by creating a special financial market infrastructures directorate that reports directly to the deputy governor for financial stability, and a dedicated decision-making committee. The FMI function reports annually to Parliament on its work.

In supervising CCPs, the Bank holds them to exacting requirements that are consistent with international standards, as implemented in the EU through the European Market Infrastructure Regulation. Each CCP must collect sufficient collateral from each user to ensure that if that user defaults the CCP has ready funding to cover its obligations to its counterparties. Over and above this, CCPs must maintain a pre-funded "default fund" to cover any losses due to a defaulting user which are not covered by the collateral that has been posted to the CCP by that user. They must hold enough own-capital, collateral and default fund assets to enable the CCP to withstand, under, "extreme but plausible market conditions",

the simultaneous default of the two users to which it is most heavily exposed.

That is already a tough requirement yet, as UK regulation requires, all UK CCPs go significantly further than this and have in place rules which ensure that if the default fund were ever exhausted, the CCP could require its users to make substantial cash contributions to ensure that the CCP continues to perform an uninterrupted service. A raft of other requirements covers CCPs' risk management, operational capital, governance, liquidity and other arrangements. Noble Lords should understand that CCPs are regulated in this country to strict standards designed to ensure that they are highly resilient. For example, when Lehman Brothers failed, it went through only 35% of the margin held by its biggest CCP.

The chances of a CCP failure are reduced still further by the significant capital and other reforms that have been enacted here and elsewhere to enhance the robustness of global banks and to develop arrangements to resolve failed banks, the CCPs' biggest users, in a way that avoids them defaulting on their obligations to a CCP.

However, it is, of course, not theoretically impossible that a CCP could fail and it is essential that the Government are prepared. For this reason, in 2012 the Government passed legislation to ensure that the Bank of England can intervene to resolve a failing CCP in a way similar to how it can intervene to resolve a failing bank by transferring a CCP or its property to either a private sector purchaser, a bridge CCP owned by the Bank of England or any other person. The UK moved ahead of the rest of the world in introducing this legislation. In answer to the question asked by the noble Lord, Lord Tunnicliffe, international work is seeking to ensure that the necessary powers and standards in this area are enhanced and adopted globally. The Government and the Bank of England are playing a leading role in these discussions at EU level, in the Financial Stability Board, of which the governor, Mark Carney, is the chairman, and through the CPMI-IOSCO group of global regulators. The EU Commission itself is represented on the relevant groups in the FSB.

International standards on recovery and resolution are critical to prevent UK banks being exposed when using overseas CCPs and to ensure a level international playing field for CCPs. There is also further work taking place in the areas of stress testing of financial resources, margin requirements, which I will say a bit about later in answer to the question asked by the noble Baroness, Lady Kramer, and liquidity requirements to enhance CCP resilience further.

Given London's leadership in this area—we have globally significant CCPs here, such as LCH, Clearnet Ltd and ICE Clear Europe—noble Lords will understand that it is essential that these standards are developed in co-ordination with the other major jurisdictions to ensure that CCPs in the EU are not put at a competitive disadvantage to those located elsewhere. This is a key priority for the Government going forward.

The noble Baroness, Lady Kramer, asked about recovery and resolution on CCPs. UK CCPs are required to produce recovery plans. In addition, the UK has a resolution regime for CCPs allowing the Bank of

England to transfer some or all of the business of a CCP to a private purchaser, as I mentioned, and to transfer ownership of the CCP to another person.

As far as international developments are concerned, in October 2014 international central banks and regulators published guidelines on CCP recovery and resolution: the CPMI-IOSCO report *Recovery of Financial Market Infrastructures* and the annexe on FMI resolution in the Financial Stability Board's *Key Attributes of Effective Resolution Regimes for Financial Institutions*. The European Commission continues to work on the legislative proposal regarding CCP recovery and resolution, which has not yet been published. This will supplement the resolution tools already available to the Bank under the UK resolution regime.

The noble Baroness also asked about stress testing. In October, the Bank of England said that it is considering explicitly including CCPs in its wider stress testing of the financial system over the medium term. She mentioned dark pools, which are something that the Bank of England is thinking about. Previously, non-standardised OTC derivatives presented a significant potential risk to the financial system due to the leverage risk exposures they presented to market counterparties and to their opacity. International standards have been developed and are being implemented that require counterparties to derivative trades that are not subject to central clearing to exchange margin to cover those exposures. Uncleared derivative exposures are also considered in the higher capital leverage requirements European banks will be required to meet. With regard to the transparency of these products, all derivatives trades by EU counterparties have to be reported to regulated trade repositories.

As far as the use of block chain, which is an interesting new development, this distributed ledger technology may represent a change in how payment systems work—indeed, it does represent a change in how payment systems work—but the use of this technology is currently very small. The Bank of England as supervisor of payment systems would continue to monitor its application.

On risk of contagion and greater price volatility from CCPs' actions, are the scale of risks and extent understood? Banks are now far more resilient and both they and their supervisors will assess the risk against the CCP, exercising its assessment rights in full. As far as price volatility is concerned, international policy developments on recovery and resolution in particular are considering the adequacy of tools, including the impact of these tools on clearing members and clients.

The noble Lord, Lord Sharkey, asked what progress we are making on reducing interconnectedness between CCPs. Of course the whole point is that they are interconnected, so the Financial Stability Board, a global body, is undertaking work on interconnectedness and how these risks may be mitigated. The FSB will report by the end of 2016.

The noble Lords, Lord Tunnicliffe and Lord Sharkey, asked whether there was sufficient co-ordination on international standards for CCPs. We think co-ordination at an international level is working well, which is obviously very important. It is important for both

[LORD ASHTON OF HYDE]

financial stability purposes and for the competitiveness of the EU that CCPs are able to operate on an international level playing field.

The noble Lord, Lord Tunncliffe, asked about the Senior Managers and Certification Regime, which we are hoping to apply in the Bank of England Bill. This will not apply to CCPs because these bodies are not authorised persons under the Financial Services and Markets Act. They have always been subjected to a specialist regime. The SMCR will not apply to them, but governance is a key focus of the Bank of England in its supervision of CCPs to ensure that commercial objectives are not inappropriately prioritised over systemic risk management, building on the PRA's work during 2014 on governance, banks and insurers. The Bank of England does have the right powers to hold CCP senior managers to account.

Lastly—I am running out of time—do we think that the concept of “too big to fail” applies to CCPs? Well, they can clearly be systemic. This is not only due to the significant exposures, but more importantly

because of their critical role in the operation of markets. That is why we have introduced legislation to establish a resolution framework for CCPs, and why we support the international and EU reforms to enhance the resilience of CCPs.

I apologise for not answering all the different questions, and I will definitely write to all noble Lords who have participated. I would like to thank again the noble Baroness, Lady Kramer, for securing this debate. I hope that I have shown in the limited time available that we do have a robust regime in place, but that the Bank and the Government are not complacent and are still working to develop national and international standards.

Baroness Kramer: My Lords, I would like to thank all the Members who took part in this—my noble friend Lord Sharkey and the noble Lord, Lord Tunncliffe—and to say to the Minister that we appreciate the efforts that he made to respond and look forward to the further Written Answers.

House adjourned at 6.43 pm.

Grand Committee

Thursday, 10 December 2015.

Official Histories

Question for Short Debate

1 pm

Asked by **Lord Rodgers of Quarry Bank**

To ask Her Majesty's Government what is their latest assessment of the process for preparing official histories.

Lord Rodgers of Quarry Bank (LD): My Lords, it is a little over two years ago, on 10 July 2013, that I last raised the future of the Government's Official History Programme, and well over 100 new Peers have arrived at the House since then. In the circumstances, I think it is justified to pursue a matter I first raised in the House on 8 February 2008, and twice, briefly, in 2012. I am grateful to colleagues who have supported me before and I welcome those who, now or later, may share my thoughts.

The Cabinet Office leaflet of the Official History Programme reminds us of the background. The work on official histories began under the auspices of the Committee of Imperial Defence as long ago as 1908, with responsibility for,

"compiling the naval and military history of the nation".

After 1945, responsibility was extended to cover wartime civil issues such as food and health. The first official history I read was *Problems of Social Policy* by R M—Richard—Titmuss, published in 1950. It is a seminal text on poverty and deprivation in wartime, by which the author made his distinguished name.

As the post-war period of official histories came to an end, the Prime Minister, Harold Wilson, following discussions with the Cabinet Secretary, Sir Burke Trend, announced that the range of official histories would now include selected periods and episodes in our peacetime history. So official histories continued and in 1997 the Prime Minister, Tony Blair, decided to renew the project.

I should explain my particular involvement. At that time, in 1997, I was appointed by the Prime Minister, together with Lord Healey and Lord Howe, as one of the three privy counsellors to approve the authors of official histories. Beyond those very limited responsibilities, I became interested in the planning and overall management of official histories. I was puzzled by what appeared to be two different series of books: the Official Histories Programme, with which I was involved, and a similar series published by the Foreign and Commonwealth Office. I enjoyed the official histories as they were eclectic, but there was no obvious logic in their character, sequence and timing, with some authors taking many years to complete their writing, or even dying on duty. I was very uneasy about the publication arrangements, including the marketing.

The then head of the Histories, Openness and Records Unit at the Cabinet Office, Tessa Stirling, was very helpful, as she had been to authors, but following

further correspondence and discussion, I decided to seek a debate. That occurred in February 2008. The ministerial reply was bland, but as a consequence of the debate, within a year, a report on the official histories was commissioned which turned out to be positive and important. The report was written by Sir Joe Pilling, a retired civil servant who took evidence widely and quickly, concluding that, "the overwhelming weight of evidence supported the continuation of the programme".

To summarise, he said:

"I recommend that the official history programme should continue".

He also made some suggestions on how to make the programme,

"better, stronger and more useful".

Despite that, in August 2010, in a letter to the three privy counsellors, the Cabinet Secretary, Sir Gus O'Donnell, said that since the current Official History Programme was coming to an end. He said:

"Given the current challenging economic climate, I am sure that there is likely to be a hiatus in commissioning titles".

That is how it was; there was no further explanation and nothing further about how to implement the Pilling report.

That brings me to the debate on 10 July 2013. In the course of my remarks, I asked several questions. Who decided to make a hiatus? Was it a ministerial decision and, if so, by whom and when? If we are in a hiatus or, alternatively, considering a new Official History Programme, precisely what are the financial consequences? As for the "current challenging economic climate", how was it measured and does it seem the same as in 2010? At what point would it be judged appropriate to end the hiatus? After all, the Government are telling us that we are in happier economic circumstances. The Minister's reply was unsatisfactory. There was no answer to my question on who made the hiatus, and so I ask again today: who decided? My following question is therefore: who can restore the Official History Programme?

As for the finances, without incurring disproportionate expenses, it is not possible to determine the overall cost of the current series of official histories. Further, the last year for which published costs were available was 2006-07. In the absence of these figures, how could a responsible decision have been made?

Almost four years ago, my noble friend Lord McNally, speaking on behalf of the Government on official histories, said:

"It would be a tragedy if we were to allow them to wither on the vine".—[*Official Report*, 17/2/12; col. 547.]

I hope that the Minister today will endorse that sentiment. As an initial step towards reviving the official histories, the Government could agree the Pilling report, arrange for the Cabinet Office to discuss this with other departments, work out the financial implications and review the present publishing contract arrangements. My Lords, why not?

1.08 pm

Lord Lexden (Con): My Lords:

"We need a sustaining stream of Official Histories".

[LORD LEXDEN]

So wrote our esteemed colleague, the noble Lord, Lord Hennessy of Nympsfield, who sadly cannot be with us today, in one of his recent books, which never fail to stimulate and entertain, as well as inform. Even a historian operating on a much more modest scale, as I do, knows what riches are to be found within the covers of the official histories. No other nation has ever produced an official history explicitly dedicated to wartime intelligence that approaches in magnitude Britain's five volumes, amounting to more than 3,000 pages, published between 1978 and 1990. There is so much to relish and, naturally, historians in this House, in academic life and elsewhere feel strongly that the programme must endure and look forward to its relaunch.

We all tend to have particular projects that we would like to see proceed, so that the distinctive, complex, and often secretive processes of government in our country can be understood better. In all of this, a study of what the great HAL Fisher called, "the play of the contingent and the unforeseen", so often turns out to be particularly momentous.

In an earlier debate on this subject, my noble friend Lord Bew referred to the case for an official history of the Northern Ireland Office. I strongly agree: the department is so frequently a neglected element in the various versions that appear of events that led eventually to the peace process. In the recently published second volume of his biography of Margaret Thatcher, based on a very wide range of official papers, Charles Moore has laid bare much of the activity of the Cabinet Office, some of it extraordinary in character, in the period leading up to the Anglo-Irish Agreement 30 years ago. But what about the government department that has been central to the implementation of British policy in Northern Ireland since 1972? How valuable an official history would be in elucidating it.

The construction of a programme of new work still lies very much in the future. What we have to do today is, first, to thank the noble Lord, Lord Rodgers of Quarry Bank, for the tenacity with which he has pursued the matters that have to be settled so that the official history programme can proceed, as so many of us want. Historians owe him an immense debt of gratitude. We must also recall with gratitude the work of the two other members of his group of privy counsellors, to whom he referred, who contributed so much to the programme: Lord Healey and Lord Howe of Aberavon, whose recent deaths caused us such deep sadness.

The second thing that we have to do today is to underline the importance of implementing the recommendations of the excellent report on the official history programme produced in 2009 by Sir Joseph Pilling, an old friend of mine who, as it happens, would occupy a prominent place in any official history of the Northern Ireland Office, having been its Permanent Secretary during the peace process. Sir Humphrey obfuscates; Sir Joseph is unequivocal. As the noble Lord, Lord Rodgers, reminded us, Sir Joseph stated:

"The overwhelming weight of evidence supported the continuation of the programme".

He went on to lay out with clarity and precision the manner in which it should be done. Again, as the noble Lord, Lord Rodgers, reminded us, that was some six years ago.

Those Ministers who have had the—not especially enviable—task of explaining the Government's position in response to the Pilling report, including the noble Lord, Lord McNally, who it is so good to see here, have resorted constantly to pleas of poverty in this so-called age of austerity. I suggest that the time has come to invoke a firm Tory principle and to bring it into play now. The principle is that, as the state divests itself of certain responsibilities, as this Tory Government are doing—particularly in the sphere of local government—so it should ensure that the state's duty is fully executed in those areas that fall permanently to its care. The Official History Programme is one such obligation.

I would not dream of showing any disrespect to my long-standing noble friend Lord Gardiner of Kimble, but I rather wish that the noble Lord, Lord Bridges of Headley, could have joined us for this debate. The Official History Programme has never had a stronger champion than his grandfather, Edward Bridges, who was a wartime Cabinet Secretary and one of the greatest public servants—one of the very few rewarded with a Garter. In late 1941, a low point in our wartime fortunes, Bridges commissioned a series of official histories on both the civil and the military aspects of the conflict. He said:

"We must think in the long term of the continuity of the state".

That above all is why this publicly-funded programme should continue, and continues to be needed.

Not that Edward, subsequently Lord Bridges, expected his own profession necessarily to be exalted or praised by the histories. "I confidently expect", he said of civil servants,

"that we ... shall continue to be grouped with mothers-in-law and Wigan Pier as one of the recognized objects of ridicule".

A Government who include this great and witty man's grandson ought surely to do their duty.

1.15 pm

Lord Addington (LD): My Lords, when I saw that my noble friend had put down a debate on official histories, I must admit that I thought, "Oh, I quite like reading history, so I will find out what an official history is". It has been a voyage of discovery and, having listened to the debate so far and read previous debates, I realise that I am treading very gingerly on ground that I do not really recognise. But it has become clear that I have actually seen and used official histories on occasion. I did not know what they were—they were just history books that had been provided by the state to look at the state.

If that is being done properly, it is a great expression of confidence in the state by the institution of the state. I rather suspect that there are a great many people—say, a Minister—who will be keener on the idea of an official history going into office than on leaving it. So we have that idea bubbling around. But if we are doing this—looking at our comparatively recent past—the programme is probably a good thing. If we take it to be a good thing, what should we do about it? Quite clearly, the first thing that we should do, as the noble Lord, Lord Lexden, and my noble friend Lord Rodgers said, is continue to produce them.

I am further indebted to my noble friend for providing me with a copy of the Pilling report. One of the most important things it says is that great big books may be wonderful things for people who have the time and the inclination to read them. But I am a person who likes history but is rather addicted to the article: the small, easy to read copy. I pride myself on having a very good veneer knowledge of history: it is wide-ranging and has a nice shiny surface in places but in other places is worn through and is non-existent. Accessible articles are the best way forward. If you are going to do this work, which is valuable and not very expensive, surely making sure you divest and get it out there would be an extremely good idea. It is about using it in a more creative way.

There is an appetite for consuming history—and it is a broad spectrum of history we are covering here—and for using that knowledge. We have many institutions that will help us do it. Surely we should be tapping into that. We have an example in the Pilling report of a good way of using new media intelligently to reach a mass audience. Surely that is what is required here.

But you have to continue to do the work. Having less monumental lists of work and being more up to date and selective in producing things in a more realistic timeframe would also help the process. You could build into that an expectation of receiving knowledge and pushing it out again, but you should still carry on doing it.

It has already been suggested that we are supposed to be in much better economic times. Surely the Government's general duty to inform and indeed encourage people to use our heritage come together here and feed off each other. One thing that we are absolutely sure about is the fact that nothing happens in isolation. If we want to keep alive the heritage industry, and indeed learning, we must use this approach to support it in various ways, and to support the work that has already been done. That is something that I would like an answer on, if not today then as soon as possible. How are we using this great store of knowledge to support education, general interest and other projects? That is something that we should be doing.

I do not think there is much more I can say that will help this debate. I hope that we will, first, carry on and, secondly, try to use any future work more creatively and go back and redistribute knowledge in a more creative way. We all have a very big, intimidating textbook at home that grins at us from the shelf. There is good stuff in it, but are we brave enough to open it and read a number of chapters? In certain cases, I certainly am not.

1.20 pm

Lord Bew (CB): My Lords, I rise to support the noble Lord, Lord Rodgers of Quarry Bank, who has taken the lead on this issue for a long time. He brought the matter before the House in July 2013 and February 2008. I supported him strongly on both occasions and I wish to support him strongly again today and to argue for a revival of the Official History Programme.

I want to follow up the arguments of the noble Lord, Lord Lexden, about the relevance of the case of the history of the Northern Ireland Office. The recent

deal that has been made in Northern Ireland to get the political institutions to function again, known as Fresh Start, does not make any provision to deal with legacy or historic issues. That is not the worst part of that deal, but the issue will not go away in Northern Ireland. Only this week the BBC "Spotlight" programme castigated the British Government for their allegedly inflexible approach on these matters, even though it based much of the programme on material that was released in the normal way at Kew. This was presented as a dramatic and subversive fact, when it was just the normal release of documents.

The local press also reports that there is still talk about some new deal on the past. Every idea that I have seen since the talks shared by Dr Richard Haass has been expensive—far more expensive than anything that might be considered by the Official History Programme. Every idea I have seen involves another lawyerfest and contains the possibility of exacerbating rather than improving inter-community relations.

In these circumstances, it is a very modest thing to say that there is surely a role for something that would be exceptionally cheap—an official history of the Northern Ireland Office. It has been brought home to me in particular by the death this year of two Permanent Under-Secretaries of the Northern Ireland Office who both played a major role—Sir Kenneth Stowe and Sir Brian Cubbon. We ought to respect the significance of these careers.

Let us remind ourselves of what is at stake. Underpinned by bipartisan consensus in Parliament for 30 years, we asked our officials and politicians, in and out of uniform, to deal with a horrible sectarian conflict. One fact is not in doubt: well over 90% to 95% of deaths in that conflict were caused by the people of Northern Ireland themselves, but we asked the Northern Ireland Office to somehow manage this.

I have no doubt that it made mistakes. We have published extensively on the mistakes, such as Bloody Sunday, and Sir Desmond de Silva's report on the tragic murder of Patrick Finucane. The state has spent many millions of pounds on many volumes revealing its own faults. Entirely in the spirit of the noble Lord, Lord Bridges, quoted by the noble Lord, Lord Lexden, I am certain that if we have an official history of the Northern Ireland Office, it will reveal mistakes. It will reveal civil servants, politicians and soldiers making mistakes in the handling of extremely difficult questions. That is really not the point. The point is that we ought to be saying that this is the effort by a liberal democracy to deal with a horrible problem. We ought to respect it and bring the full nature of this particular story to the public in a cool and calm way.

It is particularly important now and the argument is even stronger than in the past, not only because it is necessary as a balance, given some of the other ideas out there for dealing with the past in the Northern Ireland, but because we are in a second wave of terrorism. It is no longer the IRA, but we know that our society faces problems. We are again asking officials—people in and out of uniform—and politicians to make very difficult choices. Nobody believes that we can now march happily onwards into the sunlit uplands of an ever more free liberal democracy with ever more enhanced human rights. We want to do that but at the

[LORD BEW]

same time we all realise that there are also difficult choices to be made to secure the security of the citizen. This House has debated this for many hours and will have to debate it again for many hours in the years to come.

We are now in a second such conflict, and bringing out an official history of the Northern Ireland Office would reveal the errors and the many difficulties and mistakes: the tone of the comments of the noble Lord, Lord Bridges, quoted by the noble Lord, Lord Lexden, was absolutely brilliant. We would be sending out a signal that we have confidence that our politicians and our officials, both in and out of uniform, when faced with these ghastly problems, struggle to do their best. They do not always succeed, but they struggle to do their best, and at any rate, we are quite prepared to lay it out and to allow the public to judge. On the eve of, sadly, another period of British life when terrorism is again becoming a more significant issue, that is the signal we ought to be sending out. That is why there is such a strong case for the renewal of the Official History Programme. It expresses a self-confidence in the intentions of our officials, but is not an act of hero worship or piety—it is not that at all.

1.26 pm

Lord McNally (LD): My Lords, it is always a great pleasure to follow the noble Lord, Lord Bew, a very distinguished historian in his own right. My degree is in economics and social history, and I have always made a lifetime commitment never to describe myself either as an economist or a historian. The noble Lords, Lord Bew and Lord Lexden, made a very strong case for official histories, particularly in the case of the Northern Ireland Office.

The noble Lord, Lord Lexden, talked about the riches in official histories and of a programme that must endure, and made the point that pleas of poverty in times of austerity should by now be wearing thin. I deliberately left the withering on the vine statement—I do not think it was in the official draft—because I wanted a further look at the issue. I agree with the noble Lord, Lord Addington, that it could be looked at in a more contemporary way, feeding perhaps into education and using new technologies to deliver it.

One of probably the two most famous quotes about history is of course, “History is bunk”, by Henry Ford. Before the historians rush to tell me that Henry Ford never said that, I will quote what he did say:

“History is more or less bunk. It’s tradition. We don’t want tradition. We want to live in the present and the only history that is worth a tinker’s dam is the history we made today”.

Then of course the other great historical quote is Churchill’s:

“History will be kind to me for I intend to write it”.

That is what today’s debate is about: whether the Government are made up of brash young men and women who do not really care about history. If so, I am really worried, because I have to say that, in what now is a depressingly long 50 years around Whitehall and Westminster, the most dangerous politicians I have met are those who have no sense of history. I will not name them, but your Lordships could all make a list.

It is time for the Government to come clean. Do they no longer think that official histories have a value? Or do they believe that they can really leave it to those who write their own history? Are we going to leave the history of our times in the hands of Boris Johnson? Or do they see, as I do, a real value in this programme? It is too easy to take history for granted but, as was said by the noble Lord, Lord Bew, the exercise can itself be cleansing and can play a constructive role in healing old wounds. It is also important to retain a sense of national identity.

This has been a very particular year of commemorations, and I have been very pleased to serve on both the Magna Carta 800 Committee and the Speaker and the Lord Speaker’s Committee on the Magna Carta and the de Montfort Parliaments. Again, there is a sense of taking history and bringing it into contemporary understanding. What a joy it has been to see schoolchildren in particular going through Westminster Hall and seeing those wonderful banners, reminding this generation of the shoulders they stand on in terms of our parliamentary democracy. I personally think that Westminster Hall will look duller for those banners being removed, and I wish that they could stay.

I will use the brief time remaining to say a kind word about another jewel in our crown, which is the National Archives. I see that it has now been moved into what I hope will be the safe hands of the Department for Culture, Media and Sport. There again, holding on to our history is very important, and not only at a national level. We need to encourage businesses, religious organisations and charities to preserve their records, and we need to support local government archives. At the National Archives there is an archive development team that is available to help organisations keep their archives safe. Official histories are part of that commitment.

To quote the Library briefing on this debate,

“the official historian is, among things, the custodian of the national memory”.

Without these histories, we would lose something extremely valuable. So although I freely accept that in the past I may have contributed to the series of bland reports about which the noble Lord, Lord Rodgers, complained, I urge the Minister to ensure that there is no hiatus and no withering on the vine. I ask the Minister to tell us clearly what the Government want to do with official histories.

1.33 pm

Baroness Hayter of Kentish Town (Lab): My Lords, it is a great pleasure for historians to see three former assistant general secretaries and two general secretaries of the Fabian Society sitting alongside each other. I thank my predecessor in that role, the noble Lord, Lord Rodgers, who himself of course is a notable chronicler—*Fourth Among Equals*. Perhaps he also wrote to make sure that he was the one writing the history. His debate today is important to historians such as me, although I am a very junior one, unlike my PhD supervisor, the noble Lord, Lord Hennessy, or indeed the eminent noble Lords, Lord Bew and Lord Lexden, from whom we have heard today. It is also of course important to political animals such as any

of us here, because if we do not know and understand the past and its lessons and precedents, we are then condemned to make some poor mistakes.

As the noble Lord, Lord Rodgers, reminded us, the official histories have a long history. They go back to 1908, and in 1966 they were extended beyond the military. They have produced some works of major significance by impartial and distinguished historians, even if questions have been raised about whether the Government themselves use such valuable works sufficiently, and whether they are disseminated or marketed widely enough, including in the easy-to-read versions alluded to by the noble Lord, Lord Addington. There is indeed a sad lack of information about them—a visit to the Cabinet Office website being as opaque as I fear outsiders always regard government secrecy. In fact, the only thing there are the now rather old reports on this subject.

The Pilling review quoted the purpose of the Official History Programme as providing,

“authoritative histories ... a reliable secondary source for historians until all the records are available in the National Archives; and a ‘fund of experience’ for future government use”.

That phrase is key. Whether it is about capturing data by early access to papers, oral history or witness seminars, or about their analysis and publication, open government and the accountability of our leaders demands as early, vigorous and independent description and analysis as confidentiality permits.

This programme can help, whether through funding or by access, but also by encouraging and assisting research council-funded work. Government should also consider how to engage historians, particularly on areas of relevance to today’s problems, or to securing institutional memory—or, as the noble Lord, Lord McNally, said, “national memory”. Governments, both Ministers and civil servants, can also engage directly with historians, including via the History and Policy organisation, the King’s College Strand Group, the Queen Mary Mile End Group, or the Institute for Government. All these bring together academics and practitioners, exploring individual decisions, events or themes, helping to craft the preservation and use of institutional memory, including its value to staff development and to policy-making, and focusing on the lessons of history.

That does happen in some parts of Whitehall. FCO historians have blossomed; they were well used by the noble Lord, Lord Hague, when he was there thinking about current issues and general themes. Perhaps today we could also pay tribute to the work of the recently and sadly deceased Chris Martin in encouraging the history of No. 10, developing its website, and bringing in historians to advise. Relishing and fostering a sense of history in those who inhabit No. 10 benefits them and generations to come.

The programme was set up to provide a, “‘fund of experience’ for future government use”,

which is a vital phrase. There is perhaps a question as to whether government could better use the outcome, both through far wider publication of the research in the media and at events and through a more committed use of the outcome within Westminster, Whitehall, and local and European government. It may be that the Official History Programme may not continue in

exactly the same form as in the past, but we must not lose its original spirit and aims, and we should focus on better ways in which history can be recorded, analysed and used in ways that are useful to today’s Government, Opposition and for future academics, practitioners—and, even more, the public on whose behalf we all strive to serve. This is the work of their Government whom they elected and pay for. They need to know what happened in their name.

Histories help the accountability of elected Governments. So the question for the Minister is how the Government will encourage and use history for better governance, policy skills development, the capability of the Civil Service and for the contribution of history to evidence-gathering, analysis and policy. We need to have our history and we need it renewed, perhaps through an engagement programme. I support the pleas of the noble Lord, Lord Rodgers, and I endorse one particular Tory principle as enunciated by the noble Lord, Lord Lexden, which is that of the state fully executing its duties in those areas that fall clearly within its care. The official history is one such duty.

1.39 pm

Lord Gardiner of Kimble (Con): My Lords, this has been a fascinating debate, and as is customary in your Lordships’ House, it has proved to be highly educational for me. I thank in particular the noble Lord, Lord Rodgers, for his continued and loyal pursuit of this subject. Indeed, we acknowledge his valued contribution to the Government’s Official History Programme in his capacity as one of the three distinguished privy counsellors who advised the Cabinet Office on the choice of subjects and the appointment of historians over many years. I think that my noble friend Lord Lexden expressed much more fully than I am able to the gratitude of the Government to the noble Lord, Lord Rodgers, as well as paying tribute to the late Lord Howe of Aberavon and the late Lord Healey, who are obviously much missed not only in that regard but for the great contribution they made to our national life.

The noble Lord, Lord Rodgers, has asked for the latest assessment of the process of preparing official histories. Perhaps I may set out where we are with the histories which are currently in the pipeline before looking to the future. There are six official histories currently being prepared on behalf of the Government’s Official History Programme. They are expected to be ready for publication in the next two years. The subjects of these six works are Cabinet Secretaries, which will be published to coincide with the 100th anniversary of the Cabinet Office next year; the history of the Civil Service since the publication of the report of the Fulton Committee in 1968; the UK’s nuclear deterrent, which will be in two volumes; the Joint Intelligence Committee; the UK accession to the European Economic Community; and the criminal justice system.

These histories are, as I say, all nearing completion. Naturally, the costs of the histories and the time they take to produce vary considerably, depending on the subject and the individual historian. In some cases, recently retired historians are paid a personal fee, but in other cases the Cabinet Office would pay the historian’s university to buy his or her time. The sales of published

[LORD GARDINER OF KIMBLE]

histories varies, but generally only a few hundred copies per history is the usual number. The royalties from the sales of official histories barely contribute to offsetting the cost of each work—perhaps a few thousand pounds per book. Nevertheless, I should put on record the appreciation of the Government for the official histories which have been produced over the years. They have, particularly in the times before the information age, made a contribution to our understanding of some of the key events in our recent history.

But as these six volumes are now nearing completion, the Government will soon look again at the future of the Official History Programme, and the debate today will give them a range of issues to consider. I know that this will disappoint the noble Lord, Lord McNally, but looking to the future, the Cabinet Office, like all other government departments, is currently deciding how to implement the outcome of the recent spending review. For the Cabinet Office, this means a reduction of 26% in its budget. It will be necessary to take a hard look strategically at the functions of the department to ensure that the work that is done contributes to its key objectives. The future of the Official History Programme will form a part of the Cabinet Office's considerations.

But this is not just or even primarily about costs. As the noble Lord, Lord Rodgers, said, the Official History Programme was introduced in 1908, but in a different form and in very different days. Initially it was all about military histories—and, as has been said, in the 1960s the programme was amended to include peacetime histories. Since that time, self-evidently, much has changed. We have moved from a society where access to information was limited to a small number to a much more open form of government—and I think that that is a concept that the noble Baroness, Lady Hayter, would rightly champion. Even since 2009, when the Pilling and Hamilton reports were written, the world has moved on, as more and more government information is available online.

I think that the noble Lord, Lord Addington, raised this issue for consideration as, increasingly, people's preferences have changed. People seem to have less time to read the whole of a large volume of history, and instead are much more likely to refer to shorter works and compare different information that they can find online themselves. We now have freedom of information legislation, and are in the process of transitioning to a 20-year rule for records being opened at the National Archives. Government is also more transparent, with a great deal of information being published on routine transactions and important decisions.

Alongside increased public and media scrutiny of the decisions taken by government, there is now a great deal more information on the key issues of the day in the public domain, and we are opening up many more records to the public, such as the Cabinet Secretaries Miscellaneous Papers. That is something that the noble Lords, Lord Addington and Lord McNally, raised. In this age of information accessibility, records can be accessed readily by historians and researchers online—for example, from the National Archives.

I am particularly grateful to the noble Lord, Lord McNally, for raising the profile of the National Archives. I had the privilege of going there when I was part of

the DCMS team; it is an extraordinary resource and a real jewel in our crown. Anyone who goes there will understand that there is an enormous commitment from the people working there to ensure that the National Archives is held in good condition and are readily accessible. One thing that very much struck me on that visit was the number of people sitting there and accessing it, deriving great interest from the National Archives.

I very much appreciate what the noble Baroness, Lady Hayter, said about Chris Martin, and I endorse it very much indeed. No. 10 now has a good deal of historical information available on GOV.UK, for example, including a monthly article by a guest historian, biographical information on all Prime Ministers and exclusive video interviews with six Cabinet Secretaries.

In these circumstances, there is, of course, an argument that the time may have come to reconsider whether it remains justifiable to give privileged access to government records to just a few chosen historians, and spend not insignificant public resources on doing so. It might be more in keeping with today's climate of greater openness to be as good as we can be at getting information into the public domain so that independent historians can write histories, without the Government having editorial control, on the basis of information that is in the public domain and available to all.

It is undoubtedly the case that, in their heyday, official histories performed a particularly valuable role in giving the public a broad-ranging and reliably sourced historical perspective on key events in our history. As we have seen, today we have a much more open environment as far as access to government records is concerned. But I am particularly mindful of what the noble Lord, Lord Bew, and my noble friend Lord Lexden said about the Northern Ireland Office and I do, of course, promise to ensure that the Minister concerned is aware of the points made by the two noble Lords. I shall naturally ensure that my noble friend Lord Lexden's guidance to my noble friend Lord Bridges of Headley about the words of his esteemed grandfather resonates in my noble friend's ears.

This has been an exceptional debate. Again, your Lordships have heard from historians who care about the history of our country and have contributed to its history. I hope that in the reflection of this debate, the points made will be given all the consideration that they deserve. A decision as to whether the Official History Programme should continue in some form or not remains to be taken, and I will ensure that the views of your Lordships, which have been made so robustly today, are reflected to colleagues in the Cabinet Office.

1.49 pm

Sitting suspended.

Railways: Trans-Pennine Rail Line *Question for Short Debate*

2 pm

Asked by Lord Shutt of Greetland

To ask Her Majesty's Government what assessment they have made of the impact on the economic development of the north of England of the pausing of the electrification of the Trans-Pennine rail line.

Lord Shutt of Greetland (LD): My Lords, for the avoidance of doubt, I confirm that the trans-Pennine railway line to which I shall refer is the Leeds-Huddersfield-Manchester line—I may refer to other matters, too—which does, of course, have important links further east and west. Its electrification was announced in the Chancellor’s Autumn Statement back in 2011, and was to be completed by 2019.

I put this Question down for debate shortly after the announcing of the pausing in June 2015. It would have been easy enough to have pulled the debate once I heard that the de-pausing had been announced on 30 September. However, it is not so simple. Many questions arise.

The first point to raise is the fact that although the pausing stage lasted three months, the delay that is now announced adds three years to the timescale. It is stated that electrification should be complete by 2022. Is there some doubt even about that date? It is very disappointing and does not sit well with another announcement this autumn in the booklet *High Speed Two: East and West, the Next Steps to Crewe and Beyond*. That tells us that there is to be a six-year acceleration of the route from the West Midlands to Crewe—so the Government pause, de-pause and accelerate. Many in the north, of course, will wonder whether the difference in treatment is due to HS2 originating in London. One wonders whether this would be put up with in London and the south-east.

Secondly, in the pausing statement in June, the Transport Minister, the right honourable Patrick McLoughlin, told Parliament that,

“we need to be much more ambitious for that route”.—[*Official Report*, Commons, 25/6/15; col. 1068.]

He was referring to the trans-Pennine route. It was announced that the revised electrification plan was an improvement on the previous plan, which only changed the power supply of the trains. That sounds somewhat minimal. Indeed, in order to benefit from the overhead power supply, new rolling stock would be needed, and in any event there would be the advantages of electric power and acceleration. But what is the extent of the change that makes the new plan so much better or more ambitious that a further three years are needed to complete it? What further infrastructure improvements are envisaged? Can the Minister give further details? Indeed, what is the extent of the Minister’s ambition?

Thirdly, little has been said recently about the much-vaunted HS3. In another document—there has been a plethora of documents this last few weeks—*The Northern Powerhouse: One Agenda, One Economy, One North*, published in March 2015, there are five pages, 17 to 21, on “Our Rail Plan”, but there is no mention of HS3. Similarly, in the *Transport for the North: The Northern Transport Strategy Autumn Report*, published in November 2015, there is again no reference to HS3. What is Her Majesty’s Government’s present position on HS3? Is that scheme in pause mode? Where is it? If it is still envisaged, what is the connectivity in respect of east-west electrification and HS2?

The fourth point is this. The HS2 east-west document, which runs to 120 pages, repeats that HS2 is not a stand-alone railway. It will be an integral part of our

country’s rail system and wider transport infrastructure. The words “classic compatible” are used, yet in this document and another document still—*The Yorkshire Hub*—lies an interim report on the redevelopment of Leeds station. This document promotes what it describes as “option 2” for the redevelopment of Leeds. The proposal is, perhaps, marginally better than the original plan, which is now described as “option 3”.

I described that earlier plan as a hammerhead terminus. The only difference in the new plan is that the hammer shaft is nearer the hammerhead—or is it as bad as this? Is it intended that there will be another link from the south of the new terminal to swing into the west side of the present station? This is hinted at in *The Yorkshire Hub*, but it is not on the plan or the map in the *Yorkshire Hub* booklet. The documents are not clear on this, and for the sake of through connectivity, using existing electrified lines to Bradford and to Skipton, as well as the to-be-electrified lines to Huddersfield, Manchester and further west, and the lines to York, the north and the east, clarification—or perhaps change—is needed.

Another associated point, my fifth point, is that following the pausing/de-pausing/delay saga, could the Minister inform the Committee as to the present prospects for further trans-Pennine electrification via the Calder Valley and the Harrogate lines east of the Pennines? These were much vaunted in the run-up to the general election, but little has been heard of them since. It would be useful to have an update on that.

I am sure that, in his response, the Minister will trumpet yesterday’s announcements on the new franchises. I commend them, but I trust that the Minister will still tackle the issues that I raised, which need addressing now to future-proof the important infrastructure decisions ahead. We need the connectivity, whether it is connectivity HS2 to HS3 or HS2 to everywhere else. That has to be planned for now; it is something that cannot be put off. I look forward to other contributions in this debate and especially to the words of the noble Viscount.

2.07 pm

Lord Scriven (LD): My Lords, I congratulate my noble friend Lord Shutt for initiating this important and timely discussion. It appears that opportunities for better rail services in the north always seem to be disguised as a pause or a stop. Those who have nothing better to do than my Twitter timeline will notice that I have become more and more frustrated with trying to commute and travel between the cities and towns of the north. It is both an exasperating and sometimes fruitless exercise. Many millions of people across the north will be able to associate with that.

I have to say to the noble Viscount that warm words today will not be enough. The north is fed up with warm words. We seek today from this debate a real commitment with timelines and timescales and figures for some of the investment, particularly along the line of the debate heading. I come from Sheffield; I have lived in Sheffield for 20 years and I am not on the north Pennine route but on the south Pennine route. I know, however, that connectivity is absolutely key in the north. Apparently, the Chancellor also knows that

[LORD SCRIVEN]

connectivity is key, because without it, his northern powerhouse will not happen. We need to connect the great cities and towns of the north in order to deliver not just economic prosperity but a place where people can get around.

Can the Minister say how much money has been put aside for the electrification of the rail line? Is it guaranteed within the cost period 6 for Network Rail? We need to make sure that it does not go the way of the Great Western rail line, where there was a £1.2 billion overspend on an initial scheme of £1.6 billion, which caused the pause in the first place.

With regard to this scheme and the electrification of the Midland main line, does the Minister agree with the recommendation of the Public Accounts Committee in the House of Commons on 16 November which suggested that it might be appropriate to fund and manage these projects outside the five-year rail funding cycle? That is how Thameslink and Crossrail have been funded, rather than through these pauses, which seem to have become our opportunity. Those two schemes cost £21.1 billion. The scheme for the Midland main line, for example, is only £0.5 billion. I do not decry London getting investment, but I want fairness for the north. So will the Minister say whether these schemes will be out of the five-year funding cycle and will be ring-fenced in a separate fund like Thameslink and Crossrail?

On 15 July, I asked the noble Lord, Lord Ahmad of Wimbledon, in a Written Question if he would commit to the electrification of both the trans-Pennine route and the Midland main line to start and be funded before Crossrail 2 starts. I received very warm words in his answer and I now ask the Minister whether he will commit to funding and starting the two schemes before Crossrail 2?

People in the north do not want warm words. We want to see real delivery of these schemes. If connectivity is king for the north and the northern powerhouse, what about the electrification of the southern trans-Pennine route, via the Hope Valley, between Sheffield and Manchester? It is just as important. It is absolutely incredible that in the 21st century, a 33-mile journey by train takes 51 minutes between two great cities of the north. The *One North* report that was given to the Government last year asked for this. There has been no answer. In fact, there has been no mention of it. Can the Minister say yes or no? Will the Government commit to the electrification of the southern trans-Pennine route? Furthermore, the line has been downgraded. The Government promised to move from two to four trains an hour, even though the line has not been electrified. They have now committed to only three. So we worry about this route.

What about connectivity between HS3 and HS2, as my noble friend said? There is a big question about the station for HS2 in Sheffield. At present, it looks likely to be located in Meadowhall. However, the HS3 situation means that the HS3 station is in Sheffield city centre. A report by Sheffield Council showed that the Sheffield scheme creates 6,500 more jobs; an extra GVA of £2.5 billion; and should, when successful, create £530 million more business rates. Therefore, if

connectivity is king, why is there an HS3 station in Sheffield city centre and an HS2 station out at Meadowhall? Will the Minister commit to trying to locate both in Sheffield city centre?

So we want a 21st century railway—we need it now, and we need firm commitments, not warm words. Unlike my noble friend, I welcome the two new franchises that were given this week. But to be honest, getting rid of Pacer trains and having free wi-fi and more real-time information boards is not the basis of a 21st century railway. Thank you for bringing us into the 20th century with the latest franchise, but we need to see the real issues dealt with regarding connectivity. I remind noble Lords that there is £21.1 billion for London and only £0.5 billion asked for the Midland main line electrification, which has now slipped an extra three years. That may not seem a long time but, when you are a business person who wants greater connectivity, it does.

Along with millions of others in the north, I want to see some firm and real answers to my questions. I want really to understand the cost of the electrification of the north system and when funds will be firmly committed, rather than just saying “by”. I want to see answers to the strategic connectivity for HS2 and HS3 in Sheffield city centre, and I want to understand the Government’s commitment to the trans-Pennine route on the south, between Sheffield and Manchester, where they are in terms of the electrification of the Midland main line and the northern route and whether they will ring-fence funds.

I hope that after the Minister has responded my Twitter timeline will be a little bit more generous and optimistic and that, in a few years’ time, when I am travelling on what we are promised will be a connected, speedy and efficient railway line in the north, others will want to retweet rather than show frustration.

2.16 pm

Lord Berkeley (Lab): My Lords, I am very grateful to have the opportunity to speak today. The noble Lords, Lord Shutt and Lord Woolmer, both mentioned the critical issue of connectivity. I gave evidence to the House of Commons Select Committee on the High Speed Rail Bill a couple of weeks ago and was astonished by how they are still plugging this perfection of a line going somewhere up the middle. It might go into Manchester Piccadilly but it does not seem to go to any other station that is of any use. Certainly in Birmingham there is a 20-minute walk from one station to the other. They have lost it in a kind of wish to be better than the Japanese, or something.

But we are talking about the trans-Pennine route and the north today. I question whether the electrification of the trans-Pennine was ever actually going to go ahead, because I do not think that they had decided where it was going to go or how many tracks it would have, along with little details such as whether the track needed improving and where they would put the posts for the catenary, which was what went wrong with the Great Western.

I am a great believer in electrification but the problem with electrified tracks is that when the electrification stops you either change trains or you have to have a bi-mode train. So it is fine having one electrified route,

or even two, from Manchester, or maybe even Liverpool—it is not too far away—to Leeds and Sheffield. But if you want to go on to York or beyond you will have to change trains, or have a bi-mode train. I was therefore interested in yesterday's Written Statement about having 500 new trains, which the noble Lord, Lord Shutt, mentioned. I believe that they can go at 125 miles an hour, but I cannot see anywhere in the Statement whether they are diesel, electric or bi-mode. Maybe I have got that wrong, but it would be nice if the Minister could confirm it because, if they are electric, they might have to wait a year or two. It would be nice to have them, but they will not be able to operate; they will be sitting in the siding waiting for the wires to go up, which is not a very good idea.

The shortest thing that can be solved is capacity. Noble Lords will know about trains going uphill, especially if they are freight—I declare an interest as chairman of the Rail Freight Group. The northern powerhouse people have been very positive about freight, and I thank them; they want to see more freight. But it is no good having a passenger train going 125 miles an hour uphill if it is stuck behind a stopping passenger service or a freight train. So putting back what used to be four tracks on the approaches to the tunnels is absolutely fundamental and should come first.

If they can put the posts up for the wires as well, that would be a very good thing to do at the same time. There is no earthly point in going at 125 miles per hour if you have to halt behind the next stopping train. The noble Lord, Lord Scriven, mentioned the need for more trains on the Hope Valley line. Yes, of course there should be, but there has to be a place for through trains to overtake the stopping trains and vice versa.

I hope that the Minister can give us some idea of the timescale for infrastructure improvements to bring more capacity, where those improvements might take place, and how they will be linked to the new trains which might be electric, diesel or a combination of both. Certainly some money needs to be spent, and in much bigger sums than have so far been committed on the ground.

2.20 pm

Lord Shipley (LD): My Lords, I am grateful to my noble friend Lord Shutt of Greetland for initiating this debate and for the contributions made by other noble Lords. Despite the fairly small number of speakers, the key issues have been clearly identified and the Minister has been given a large number of questions to respond to. It is likely that I will add one or two to that list.

Back in the middle of June we had an excellent debate on transport in the north, and on that occasion I spoke about the importance of thinking in a pan-northern way, pointing out that connectivity east to west matters far more than perhaps transport planners based in London understand, and that Transport for the North as a single body with a clear remit to promote investment in the transport infrastructure of the north of England is a very welcome development. We have moved on from the position of a few months ago. As

has been pointed out, there was real concern just a few days after that debate when the commitments made before the election were paused, leaving the electrification of the trans-Pennine route in doubt.

A lot has been written and said about the matter. It does not affect only the trans-Pennine route between Manchester and York, and real concern has been expressed about the capacity of Network Rail and its planning. I hope very much that those issues have been overcome. It is possible that it may prove to be a blessing in disguise that the pause has happened at all. It may give time for the problems of projects suffering overruns caused by poor planning and poor estimation of costs by Network Rail to be identified and acted upon by the chair, Sir Peter Hendy. I welcome his work, and I welcome, too, the appointment of John Cridland as the first chair of Transport for the North. He said on his appointment a few days ago:

“There is much to do to improve transport capacity and links across the North”—

and he is absolutely right. I hope that he will bring some clarity to the planning process because we still lack a strategic transport plan for the north. Indeed, we lack a strategic transport plan for the whole of the United Kingdom. We have elements of it, but we do not have a single plan.

There are elements of a rail plan for the north of England and we certainly have ambition. I pay tribute to the Minister, to the Secretary of State for Transport and to colleagues in the department because a lot has been happening, and I welcome some of the achievements of recent months. However, we need much more work, and the debate today has identified a number of ways in which the improvements need to be made.

I welcome the decisions announced this week on the Northern Rail and First TransPennine Express rail franchises. I hope that I do not sound churlish when I say that I wish that the hyperbole of DfT press releases could be toned down a bit. This week there was an assertion that the planned rail improvements will,

“make the Northern Powerhouse a reality”.

As a statement that is slightly over the top. It will certainly help, but actually it will take a great deal more than that, including work by other departments of state, to deliver the northern powerhouse. But the sense of direction is right and I pay tribute to Ministers for that.

From the perspective of the north-east—as your Lordships know, I live in Newcastle upon Tyne—there will be 500 new carriages, new peak-time services, greater capacity, an end to Pacer trains, improved stations, better ticketing and full electrification between Liverpool and Newcastle by 2022. That is all welcome news, even though of course it has actually been delayed, as was pointed out to us by my noble friend Lord Shutt of Greetland.

In addition, the First TransPennine Express franchise will deliver £400 million in premiums to the Government over the seven years of the franchise. That is a level never previously achieved. It is good that it is being managed out of the north by the Department for Transport and Rail North Ltd, which represents 29 local authorities across the north and which will build capacity in the north.

[LORD SHIPLEY]

I noted that in his press release the Secretary of State for Transport felt that:

“Arriva Rail North Limited and First TransPennine Express Limited went far beyond our requirements with exciting, ambitious plans”.

That made me wonder why the Department for Transport’s requirements were so limited in the first place. If it is easy for those running the franchise to deliver more than was expected in the bid documentation, it seems to me that maybe government underasked. The result demonstrates to me that there is demand for the services, and thus income from travellers will be forthcoming. That is a vindication of those who have been campaigning for improved services.

I ask the Minister to clarify the question of fares, given these two new franchises. Is all of the additional income that is coming in and the improvement to services to be achieved from current income, or is there an expectation that there will be higher fares? I have assumed that fares would not alter, but I would appreciate the Minister’s confirmation that fares will not go up on either of these new franchises over their lifetime.

I referred earlier to the need for a strategic transport plan for the north. There has been mention of integration with HS2, and we have talked about the issues around Leeds and in Sheffield, which I will not repeat. However, there does need to be better integration. I would like to hear the Minister’s observations on my view that the cost of spurs and links between HS2 and city centres should be appraised and budgeted for now as part of the overall HS2 project. There are some big costs that need to be thought about, but they do not form part of the current HS2 budget plans.

Paragraph 60 of the Command Paper that was previously referred to suggests that this can happen “seamlessly”. If these links to HS2 are to happen seamlessly, they have to be planned clearly, but I am unclear what that plan is. We have had a mention of the Leeds-Manchester link, but I am not clear what the top of the Y will look like in the context of HS3. I hope that the Minister will be able to tell us what the plans are for HS3, because I am not clear what the policy is on how the two sides of the Y will join up. The Chancellor has talked regularly about this, but I do not know what that link would look like.

Perhaps I could also ask about the east coast main line. Paragraph 51 of that recent Command Paper talks about the HS2 connection to the east coast main line via Church Fenton and states:

“We continue to believe that a link onto the ECML is necessary and complements the Government’s commitment to deliver better transport across the North-East and Yorkshire”.

The timescales are too long. If West Midlands to Crewe can be advanced by six years, there should be a clear commitment that the link to the east coast main line should be put in as part of the extension to Leeds; it should be constructed at the same time. I hope very much that some thought can now be given to that.

I turn to growth within the northern powerhouse. In the end, this is all about growth. Because local authorities will be able to keep 100% of business rate growth in future years, areas that attract development

will grow faster, pay more in business rates and therefore enable those areas to invest in better infrastructure. A big worry for areas not on the high-speed line, even if they have the classic compatible rolling stock, is that they will miss out on that increase in business rate income. What assessment has been made of the impact of 100% retention of business rates on areas not on the HS track?

Finally, the point made by my noble friend Lord Scriven about planning cycles and funding cycles is extremely important. If some parts of the country can avoid five-year funding cycles, why cannot the north of England avoid those, too?

2.31 pm

Lord Rosser (Lab): I add my thanks to the noble Lord for securing this debate. We welcome improvements to rail services, particularly where they will have the biggest impact. The subject of the debate is about not simply the pausing of the electrification of the trans-Pennine line but about its impact on the economic development of the north of England. If I have guessed correctly in which of his many areas of responsibility the Minister is speaking today—and perhaps I have not—it is interesting that the government spokesperson for this debate is from the Department for Transport rather than from a department one might more normally associate with responsibility for overall economic development.

I do not know, if I am right, whether this means that when the decision was announced by the Secretary of State for Transport to pause the electrification of the trans-Pennine line, the Secretary of State was also responsible for making an assessment of the potential impact of the decision on the economic development of the north of England, or whether likewise when he was announcing that the pause had ended and then subsequently going along with the recommendations from Sir Peter Hendy—which put back the intended date of completion of the electrification of the route—the Secretary of State for Transport was also responsible for an assessment then of the impact of the delay on the economic development of the north of England. Certainly, the report from Sir Peter Hendy called for by the Secretary of State on the replanning of Network Rail’s investment programme did not address this point, and neither does he appear to have been asked to take it into account.

The usual very helpful briefing pack for this debate from the House of Lords Library does not appear to contain very much about any such assessment of the impact of either the pausing, unpausing or subsequent delay in the timescale of this electrification scheme. That could be an oversight. Alternatively, it could mean that such an economic development assessment does not exist, or at least not in the public arena.

I hope that the Minister will be able to tell us when he responds if in reality any proper assessment of the impact of the pausing of the scheme and then subsequent moving back of its completion on the economic development of the north of England has been undertaken, and, if so, who undertook that assessment and what it said. I ask that in the context that, from a purely railway point of view, there have been comments

from some sources that the now extended timescale for the electrification of the line could have advantages in that purely electrification of the route within the original timescale within control period 5 would have led to an increase in the costs and complexity of subsequent intended and projected capacity and speed upgrades, and that if the electrification and track improvements to provide faster and more frequent journeys were instead to be undertaken together—as it appears may now be the case—that would also considerably enhance the benefit-cost ratio of the scheme. Perhaps the Minister could comment on that point in his response.

If that point has any validity, it highlights the problem, to put it politely, of Ministers announcing schemes for electrification of rail routes and pushing for early completion dates in the run-up to an election, without thinking through the consequences. Of course, once the election is out of the way, it is politically easier to repent at leisure over completion dates when the impracticality, and perhaps also the lack of sense, of the original timescale and apparent limited extent of the project has to be admitted, as has happened in this instance with the trans-Pennine route. In this case, though, the Government knew before the election—but remained silent—that their projects did not stack up. Network Rail has said that in mid-March 2015, it informed the Department for Transport that decisions might need to be made in the coming months about the deferral of certain schemes.

We have recently had the announcement on the setting-up of a national infrastructure commission to advise on major infrastructure projects. Will the Minister say whether the intended role of the commission is such that, had it been in existence at the time, it would have been asked to advise beforehand on the Government's pre-election announcements on improved transport links related to the northern powerhouse concept? If so, the national infrastructure commission holds out the prospect for the future of announcements of significant transport infrastructure improvements made prior to an election not subsequently having to be hastily and significantly revised and amended immediately after the election. Perhaps the Minister could comment on the intended role of the NIC in this regard.

The briefing pack includes a copy of a letter dated 30 September 2015 from the Secretary of State to Louise Ellman MP, the chair of the House of Commons Transport Committee. The Secretary of State states that he has asked Network Rail to “unpause” the electrification of the Trans-Pennine route. Perhaps the Minister could say whether “unpause” means the same as “proceed with immediately”. The Secretary of State then goes on in his letter to Louise Ellman to say that, “Network Rail will work with the Department for Transport and Rail North to develop a new plan for electrification of the TransPennine line between Stalybridge and Leeds and on to York and Selby to focus on delivering key passenger benefits as quickly as possible. This is an improvement on the previous plan which only changed the power supply of the trains”.

That point relates to the point I raised a few moments ago about the scope of the original decision. On that point, on the extent of the proposed electrification, the Chancellor of the Exchequer announced in March 2015—interestingly, again, close to the election—that electrification would be extended from Selby to Hull,

with funding from the private sector. Will the Minister confirm that that is still on track, and indicate when this work will be completed and what level of funding will be required from the private sector?

The letter from the Secretary of State goes on to talk about faster journey times and significantly more capacity between Manchester, Leeds and York. Faster journey times and capacity increases are not, of course, simply about electrification. They are also about track capacity and line speeds. Does the new plan involve providing additional tracks on parts of the route, so that, for example, fast trains can be segregated from stopping services and freight trains—and, if so, to what extent and where? What will be the maximum line speed on the newly electrified line once the work has been completed? By what extent will the freight capacity of the route be increased following electrification and the increase in line capacity? These are all issues that will impact on the economic development of the north of England, which is the subject of this debate.

The report from Sir Peter Hendy states that Network Rail has sought to balance the level of expenditure required to manage the core business and the extent to which it can deliver the full enhancement programme within the available funding. The report goes on to say that Network Rail has concluded that the core business can be managed within the borrowing limit that has been set for control period 5, but that the principal change to achieve this will be a reduction in renewals activity, which Network Rail considers can be managed safely and will not create a backlog that cannot be caught up in subsequent control periods. Are the Government happy to see renewals activity reduced as part of the replanning of their investment programme, including electrification schemes? Presumably, the present renewals programme has been drawn up on the basis of what needs to be done and when.

A further consequence of the replanning of the investment programme is that Network Rail will have to divest itself of assets, including property assets, to provide required levels of funding. As Sir Peter Hendy's report says, selling assets to fund enhancements has implications for the future funding of the railway, as less income from property means that more will have to come from elsewhere. That could, of course, include higher fares for passengers and freight. Reducing Network Rail's future income looks like a decidedly questionable move, based on short-term considerations rather than long-term thinking.

The electrification of the trans-Pennine route will not now be completed until 2022. It will be delivered not within control period 5—as originally intended—but across control periods 5 and 6. Will the Minister say when, during 2022, it will now be completed? Will the Minister also say what the cost of the delayed electrification of the trans-Pennine route will now be compared with the previous estimated cost, which I believe was in the region of £240 million, but I accept that I could be seriously wrong on that? What part of any increased cost is due to the pausing of the scheme and subsequent delay in its completion? When will the electrification of the route now actually commence?

What impact will there be on rail services on the trans-Pennine route as a result of the necessary infrastructure work being undertaken during the period

[LORD ROSSER]

from now until the completion of the electrification project some time in 2022? If it will result in an adverse impact on services, both passenger and freight, over that period of time, to what extent will that be the case, and what impact will that have on the economic development of the north of England over the next seven years, which is what this debate is about?

I hope that some lessons have been learned from the pausing, unpausing and delaying of the trans-Pennine electrification scheme, not least the problems of playing election politics with major railway infrastructure projects. As the House of Commons Public Accounts Committee said last month:

“The 2014-2019 rail investment programme could not have been delivered within the budget which the department, Network Rail and the Office of Rail and Road agreed”.

It added:

“Over promising what can be delivered leads to inevitable delays and cost overruns; and simply delaying projects further as a budget management mechanism is not good financial planning”.

2.41 pm

Viscount Younger of Leckie (Con): My Lords, I congratulate the noble Lord, Lord Shutt, on securing this debate on the trans-Pennine rail line. I am very glad that he has pursued the debate, as I detected a slight hesitation in his speech as a result of the so-called “unpause” in September.

This has been a short but useful debate, with many very good contributions. I understand the depth of concern and why the debate was secured. A number of questions were raised—some quite technical from the noble Lord, Lord Rosser—so if I run out of time and am not able to answer them, I pledge to write to the noble Lord and copy in all other noble Lords who have taken part in this debate. I reassure the noble Lord, Lord Scriven, that this is not just warm words from the Government; there is some action. I hope that I will be able to prove that in the next 10 minutes or so.

I start by outlining the wider context of this debate. This Government have recognised that successive Governments have failed to invest adequately in transport both in the north of England and across the wider UK, and have now chosen to invest in transport for the long term. The transformation has already started. I am glad that some noble Lords recognised this in the debate, particularly the noble Lord, Lord Shipley. From March this year, electric trains were introduced on services in the north-west. Manchester Victoria station, once called the worst station in the UK, has been transformed. Train manufacturing has returned to the north-east, with Hitachi’s new £82 million factory in Newton Aycliffe, County Durham. This is creating more than 700 jobs and will support thousands in the UK supply chain.

Noble Lords will be aware that yesterday the Government announced an exciting new development, as was mentioned in the debate. The new northern and trans-Pennine rail franchises will see transformative improvements to passenger rail services in the north over the next decade. Rail journeys across the north will undergo the biggest transformation in decades, with an unprecedented package of improvements that goes

far beyond the requirements we set out earlier this year. Together, these operators will oversee a very significant £1.2 billion boost to rail services with brand new, modern trains, more seats, more services and a host of improvements to deliver a modern, 21st-century passenger experience. This will include: the introduction of more than 500 brand new carriages; the removal of the outdated and unpopular Pacer trains from across the north; and space for 40,000 extra passengers at the busiest times.

I turn to the facts surrounding the pause of the trans-Pennine line and, indeed, the essence of this debate. I acknowledge the point made by the noble Lord, Lord Shutt of Greetland, about the doubt over the date of the 2022 upgrade of the trans-Pennine line. It is true that at a Transport Select Committee hearing in March 2015 the Secretary of State for Transport specifically acknowledged the slippage of the trans-Pennine electrification scheme from 2019 into the early 2020s. There is no doubt about that.

As noble Lords will be aware, on 25 June the Secretary of State announced that important parts of Network Rail’s programme for improving Britain’s railways were costing more and taking longer than planned to deliver. Sir Peter Hendy, who has a proven record of delivering on major transport challenges, was appointed as the new chair of Network Rail. The Secretary of State asked him to replan the whole of Network Rail’s improvement programme for England and Wales. Part of that announcement was that the scheme to electrify the trans-Pennine rail line connecting Manchester to Leeds and York via Huddersfield would be paused. Pausing the trans-Pennine electrification scheme did not mean that the Government’s commitment to delivering the project had faltered or stopped. I hope that I can reassure the noble Lord, Lord Rosser, to that extent.

In fact, the pause gave Sir Peter the opportunity to develop a better plan for this important route—what we are now calling the trans-Pennine route upgrade. On 30 September, work on the trans-Pennine scheme officially resumed. On 25 November, Sir Peter published his more robust plan for the Network Rail enhancement programme, to ensure that every part of Britain benefits from a growing economy. The noble Lord, Lord Berkeley, raised the importance of freight, which has not been mentioned much in this debate. This plan recognises the importance of the strategic freight network.

Let me be clear that the previous plan for the trans-Pennine line changed only the power supply of trains; it did not include the track work required to make journeys faster or for more frequent trains. The new plan for the full route upgrade will by 2022 make journeys faster, taking up to 15 minutes off today’s journey time between Manchester and York, right across to the east; permit more frequent fast trains—up to six fast trains an hour with limited stops between Manchester and Leeds; reduce crowding by allowing longer trains to run; and improve performance.

The original plan offered poor value for money. It included only electrification of the existing track, which brought limited benefits to passengers. The passenger benefits secured by the new upgrade proposal are expected to make the scheme medium to high value for money. During my briefing I asked in depth what

was meant by “value for money”—about which many noble Lords will have more experience than me—but rather than go into that now I am more than happy to write to noble Lords with the information.

The next step in developing the new plan for the trans-Pennine route upgrade is the detailed design and planning of the works over the next two years. We are pushing on with works on the ground this coming January to improve the Calder Valley route from Manchester to Leeds via Rochdale and Bradford. These improvements will initially allow the Calder Valley to be used as a diversionary route for trans-Pennine services normally using the route via Huddersfield while it is closed for major work to enable the six tunnels along the route to accommodate the overhead electric wires. This includes the three-mile long Standedge tunnel, the fifth longest tunnel in the UK, with which I am sure noble Lords are familiar.

Noble Lords will no doubt be aware of the northern powerhouse. Our aim is to rebalance the decades-old north/south divide. Much has been said about this in the House over the past few months. Transforming transport connectivity across the north is integral to this ambition. The noble Lords, Lord Shutt, Lord Scriven and Lord Berkeley, raised the importance of connectivity. Connectivity, as I think I mentioned earlier, is at the heart of the northern powerhouse: joining the major cities of the north to bring together an economic powerhouse to rival London and rebalance the economy. There will be massive investment in rail capacity, delivering 500 new trains of all types—diesel, bi-mode and electric—space, as was mentioned earlier, for 40,000 more passengers, greater frequency and more services. The new franchise is just the start of that. This will start to deliver services to the north and needs to be allowed to be built upon by our plans for the northern powerhouse rail, previously called HS3.

We are working closely with Transport for the North, Network Rail and HS2 Ltd to develop our rail plans for the 2020s and beyond. Noble Lords might not be surprised to learn that we now like to call this the northern powerhouse rail network—there is probably an acronym for that. We have also commissioned HS2 Ltd to look at options for improvements to rail travel to Scotland, which we will consider next year.

I would like to address some of the questions raised. The noble Lord, Lord Shipley, acknowledged that we have the elements of a plan for transport in the north but need to do much more work. He is absolutely right. In the Autumn Statement, the Government announced £10 million a year for the life of this Parliament to fund the new Transport for the North organisation. It is tasked with producing a comprehensive northern transport strategy.

The noble Lord, Lord Shutt, talked about what was recently said about HS3 and asked what the Government’s position is. The Government have, jointly with Transport for the North, set out their vision for the transformation of the east-west rail connections across the Pennines. As I mentioned earlier, we now call this the northern powerhouse rail network. With Transport for the North, we have commissioned Network Rail to examine how we can deliver a 30-minute journey time between Manchester, Leeds and Sheffield, with links onward to

Hull, Newcastle, Liverpool and, importantly, Manchester Airport. We will publish the findings of this work early next year.

The noble Lords, Lord Shutt and Lord Scriven, mentioned the electrification of the Calder Valley line and the south trans-Pennine route. The electrification of the Calder Valley line has been identified as a potential scheme by the electrification task force for the control period starting in 2019. Network Rail is currently considering the recommendations and will publish its electrification strategy in the next year for funding consideration by the Government after 2019.

The noble Lord, Lord Shutt, raised the issue of the design of the Leeds HS2 station. The Government have asked Sir David Higgins to look at the options for Leeds and its links to Leeds city station, and to find a scheme that will stand the test of time.

The noble Lord, Lord Shipley, asked what the Y aspect of HS2 would look like. The Government and Transport for the North are working very closely with Network Rail and HS2 Ltd to address these very questions.

The noble Lord, Lord Rosser, asked whether, had the National Infrastructure Commission existed before the election, the poor planning of the project—as he put it—would have been avoided. However, he will know only too well that his ex-colleague, the noble Lord, Lord Adonis, has been asked to chair the National Infrastructure Commission, with a clear remit to advise on the priorities for transport and, indeed, other infrastructure investment.

I hope that I have made it clear during the debate that this Government are both ambitious and practical about improving transport in the north of England. This is supported by yesterday’s announcement of a comprehensive plan for the railways in the north. I hope I have got it across that we have taken decisive action to ensure the trans-Pennine line electrification goes ahead with a better plan than before. Rail passengers will have a better service that will do far more to support the northern powerhouse economy.

In summary, and to conclude, we already have electrified the oldest inter-city railway between Liverpool and Manchester earlier this year; we have a clear view towards a better scheme, the trans-Pennine route upgrade, to be completed by 2022; we have announced the new trans-Pennine and northern rail franchises, with a transformational programme up to the mid-2020s; and we have taken steps, through establishing Transport for the North, for the north itself to set out a clear view of its transport priorities to complement the opening of HS2 to Manchester and Leeds in the early years of the 2030s. As has been acknowledged, this is just the start and there is much work to be done. Our journey has started, and I thank noble Lords for supporting the project so far.

Lord Berkeley: I welcome much of what the noble Viscount said. Five or six fast trains an hour across the Pennines sounds really good for passengers, but you will not have any stopping trains in that pattern unless you have more tracks. Perhaps the noble Viscount could write to us about the extra tracks that will be necessary to accommodate stopping trains and freight.

Viscount Younger of Leckie: I will certainly add that the number of questions that I have not been able to answer. I will include it with the questions put by the noble Lord, Lord Rosser.

2.55 pm

Sitting suspended.

Music Venues

Question for Short Debate

3 pm

Asked by Lord Clement-Jones

To ask Her Majesty's Government what plans they have to support small grass-roots music venues.

Lord Clement-Jones (LD): My Lords, according to UK Music's latest figures, the music industry now contributes £4.1 billion to the UK economy, generates £2.1 billion in exports and employs more than 117,000 people. The sector as a whole grew by 5% in 2014. While our music industry is succeeding in many aspects, behind these impressive figures, elements of the sector are not doing as well. The focus of this debate, and of my remarks today, concerns what plans the Government have to support small grass-roots music venues. I am delighted that so many other music-loving noble Lords are joining in today's debate.

Earlier this year, the Mayor of London established a Music Venues Taskforce. Chaired by the Music Venue Trust, and involving the Musicians' Union, UK Music and representatives from two London venues—the 100 Club and Village Underground—the task force published its *Rescue Plan* in October to address the 35% decline in grass-roots music venues in the capital since 2007. While a lot of the publicity for grass-roots venue closures has been centred on London, the issue of grass roots is not unique to the capital. Venues such as Leicester's Princess Charlotte, TJs in Newport, the Duchess of York in Leeds, the Picture House in Edinburgh and the Roadhouse in Manchester have all closed due to a number of issues that add up to the same thing: running a grass-roots music venue is becoming increasingly challenging.

In the task force's *Rescue Plan*, the Music Venue Trust came up with a definition of a grass-roots music venue—as distinct from other premises—centred primarily on its cultural and social role and based on music programming being the establishment's *raison d'être*. Furthermore, being a grass-roots venue means being a beacon of music and a key generator of night-time economic activity, and taking risks with programming and acts.

I am sure that many noble Lords have been enjoying the latest album from UK artist Adele, "25", which has set records around the world for sales and is likely to be this year's global music success story. Adele played her first gig at the 12 Bar Club in London, whose Denmark Street venue is now closed. She went on to play support slots and small shows across the country, building her skills and her experience in front of small audiences in the manner that has enabled UK artists to thrive for the last 50 years. Had it not been

for the vital grass-roots music venue circuit, it is difficult to see how an artist such as Adele could have cultivated her creativity. In 1994, a little-known band by the name of Oasis undertook a 25-date tour of the UK which transformed them into the world's leading live band. Of those 25 venues, only 12 remain open.

The UK's ability to create more acts like Adele and Oasis is being challenged by a number of threats to these important institutions. These threats include rising property prices and rents, increased demand for housing in big cities, increases in business rates, lack of specific guidance on how to treat music venues in planning law, increased deregulation of the planning system—notably the permitted development right from 2013, which allows offices to be converted into homes without the need for full planning permission—and increased conditions put on other aspects of a venue's licence, despite the exemptions put in place by the Live Music Act.

There has been a lack of central government legislative support when contrasted with other key music markets such as the USA or Australia. In financial terms, across continental Europe, the grass-roots music venues sector has attracted significant direct government or industry subsidy, which distorts the market, making it difficult for our venues in the UK to compete for international talent. Thankfully, there are a number of sensible actions that the Government can take in order to alleviate the problems for grass-roots music venues.

First and foremost, the Government should introduce the agent of change principle into planning law. This principle would mean that when a planning development is granted, the onus is on the incoming individual or business to take responsibility for any changes needed to deal with noise from businesses that existed in the vicinity before permission was granted. Such a provision would significantly reduce the financial and administrative burden placed on venues when new development occurs. The principle has already been adopted in some states in Australia and the US. The Mayor of London has indicated that the agent of change principle will be adopted in the London Plan 2018.

Will the Minister undertake to look at how primary legislation can be strengthened in this regard? An opportunity exists in the Housing and Planning Bill, where amendments to introduce the agent of change principle have been debated in the Commons. In the debate on Tuesday, Planning Minister Brandon Lewis rejected the amendments as unnecessary. He claimed that the National Planning Policy Framework incorporated the principle and so did the guidance—I suppose that he meant paragraph 6 of the noise planning guidance.

However, he said that he is trying to meet the music sector on this in conjunction with Culture Minister Ed Vaizey who pledged to arrange a meeting with a delegation when he attended Venues Day 2015, the annual national gathering of grass-roots music venues from across the UK, which is organised by the Music Venue Trust. UK Music has followed up on this but no date has been confirmed. Can the Minister undertake that this will happen before Report in the Commons on the Housing and Planning Bill?

Will the Minister also consider how the ground-breaking deed of easement of noise in the recent Ministry of Sound case can be further promoted as good practice in resolving cases between developers and venues? Will he also commit to a biannual meeting of key Ministers to consider, develop and monitor strategies of support for venues?

Secondly, the Government should introduce full relief from business rates for grass-roots music venues. As I have already outlined, business rates are problematic for music venues. A small London venue may pay tens of thousands of pounds a year in business rates, making it economically unviable without financial support. The Government are conducting a review into business rates relief for local newspapers. This creates a potential precedent for the Government to review rates for grass-roots music venues. Such a measure would go some way towards correcting the imbalance in cultural subsidies with our European competitors.

In monitoring the impact of the Live Music Act and further entertainment deregulation from earlier this year, the Government should review whether local authorities and the police are utilising and over-regulating other licensing conditions to regulate certain music venue activities which should otherwise benefit from the full impact of the coalition Government's entertainment deregulation reforms. Internal government co-ordination is also key to this issue. This debate is being responded to by the noble Earl, yet other aspects of government such as DCLG, Defra and the Home Office also have a strong interest in this.

At Venues Day 2015, Minister Ed Vaizey firmly backed the idea that grass-roots music venues should have access to cultural funding. What steps are the Government taking to ensure that that happens, and specifically what can be done to ensure that any available funding acts directly to improve the infrastructure in those venues so that they are attractive places for touring artists to play?

Finally, will the Government make a specific response to the Mayor of London's Music Venues Taskforce report, and what further work are they planning to undertake with other large cities and communities in the UK to promote the vital role of grass-roots music venues?

We protect and support our theatres, arts centres, civic centres, museums and galleries by recognising their cultural priorities. The Government should do all they can to ensure that these vital incubators of the live music industry are able to access similar levels of support and recognition from national government and local authorities as those received by other spaces. These issues are urgent for the future of live music venues and I hope that the Minister will respond appropriately.

3.09 pm

Lord Colwyn (Con): My Lords, I thank the noble Lord, Lord Clement-Jones, for securing this debate this afternoon. It provides a timely opportunity to identify the reasons behind grass roots music venue closures and address how this might be rectified. I thank UK Music and the Mayor of London for their help. My few remarks will relate to the task force report and comment on its conversations with a large number of music and night-time industry organisations.

Venues act as important centres for cultural activity in our towns and communities. Grass roots music venues act as important hubs for local music talent and offer a means by which musicians and performers can develop their performance. Problems for grass roots music venues are not unique to our capital. Other cities have been affected and have either closed or had considerable threats of closure placed on their businesses in recent years. I declare my interest as a patron of the National Youth Jazz Orchestra. I am co-chairman of the All-Party Jazz Appreciation Group, and I thank the British Phonographic Industry, the Performing Rights Society and, particularly, Phonographic Performance Ltd, which has sponsored the British Parliamentary Jazz Awards for 10 years. These awards have become one of the most important jazz award events in the UK jazz calendar. I am also grateful to Yamaha, which helps young jazz musicians at grass roots level with the loan and provision of instruments via the youth jazz and Yamaha scholarship awards.

I have been known to do some busking in local pubs, but regret that I no longer perform at the larger events. I much prefer to visit Ronnie Scott's and ask Simon Cooke to point out the up and coming musicians and important guests or chat to Steve Rubie at the 606 as to why he gave up his career as a dentist to run a jazz club. Where did I go wrong? I am sure that my noble friend Lord Courtown and his family will have heard and danced to my band on many occasions. Looking around the Moses Room this evening, I see other customers of mine, including the noble Lords, Lord Addington and Lord Brougham and Vaux, who would have danced to my band.

Demand for live music is increasing, and music tourism is thriving. Grass roots music venues aid a vital talent developmental role that has not been replaced by television talent shows or social media. However, 35% of London's grass roots venues have closed over the last eight years. The Mayor of London's Music Venues Taskforce was set up to work out why so many venues have closed and what impact this is having on London's culture and economy. It found that London's grass roots music venues are pivotal to the ongoing success of the UK music industry and contribute to London's desirability as a place to live, work and visit. However, planning, licensing, policing and fiscal policy is struggling to balance the needs of grass roots music venues with those of residents and businesses. An increasing population means that residential development and night-time activity are all connected. This pressure, coupled with rising property prices and increasing costs for grass roots music venues, is proving too much and venues are closing.

The task force found signs of market failure within the music industry. The research and development function that grass roots music venues undertake has not been properly supported. There is now a need to rebuild London's grass roots venues and invest in new talent so that all parts of the industry can return to full health. Following extensive consultation with government, local authorities and the music industry, the task force has proposed a rescue package. The report also sets out an ambition to create new venues and harness the benefits of London's tourism boom through new promotional campaigns. The task force

[LORD COLWYN] calls for a change in how we think about music venues; it believes that grass roots music venues are cultural spaces and need to be recognised as such in policy documents. I hope that the music industry will now work with government in responding to this crisis at the grass roots level.

3.14 pm

Lord Foster of Bath (LD): My Lords, I too congratulate my noble friend Lord Clement-Jones on securing this debate. Like him and other noble Lords, I believe that supporting and nurturing live music of all genres is important and worthwhile. Not only does it give many of us enormous pleasure, it can also, for instance, enhance educational achievement, help recovery from ill health and improve well-being. It can play a role in cultural diplomacy, and it can help to reduce crime. It can assist in social cohesion and, of course, as we have already heard it can make a significant contribution to the economy of our country. The charity Golden-Oldies, based in my former constituency of Bath, demonstrates the power of music when it comes to well-being. The Goldies provide singing and activity sessions, bringing together older people who are socially isolated or people with learning difficulties, dementia and Alzheimer's. It really does work. As Age UK has said:

"The power of music, especially singing, to unlock memories and kickstart the grey matter is an increasingly key feature of dementia care".

As I have said, music can bring communities together. I was the lead Minister for Our Big Gig, which is an annual government-funded community music celebration of local musical talents and music-making. It brings communities together, with people from all sorts of backgrounds who live in the same neighbourhood often meeting for the first time. If live music is important, so too are the small venues which are its life-blood. That is why I was pleased to have the opportunity to pilot through the Commons my noble friend Lord Clement-Jones' Live Music Bill, which is now the Act. The aim was simple: to reduce the regulatory burden on small venues hosting live music, and thus encourage more to do so. It has succeeded in helping some small venues to keep going and new ones to open, and it has played its part in seeing a growth in the live music sector and a corresponding increase in its contribution to the economy.

As we have already heard, venues are closing and the problems are growing. The Mayor of London's Music Venue Taskforce has already been referred to, and we have heard of problems elsewhere in the country. However, precise information is hard to come by and the data is limited. For instance, venues that are encompassed by the Live Music Act no longer need an entertainment licence, so getting precise numbers to enable a before-and-after comparison is difficult. Many argue that the standard industrial classification, SIC, and standard occupational classification, SOC, codes which are used by ONS are unhelpful. We know that information gathered by a range of bodies such as UK Music, the Music Venue Trust and the Live Music Exchange is not adequately collated. I believe that it would help—and I hope that the Minister can assist us with this—if we could find ways of asking colleagues

in different departments to look at the collection and analysis of data on live music to help us get a better feel for the situation.

There are definitely problems and many solutions have already been offered, ranging from night-time economy tsars to a review of venue capacity limits in light of the smoking ban. In the limited time I have, I will mention just two areas where I believe that progress can be made. The first is simply to give greater publicity to legislation and support systems that already exist—measures that I had a hand in bringing into force.

As an example, the Bell Inn on Walcot Street in Bath is a popular local pub and a live music and performance venue. Regulars became concerned that the pub could be sold, closed as a pub and converted to other uses, so they used existing powers under the Localism Act 2011. They listed the pub as an asset of community value, which meant extra protection from development and a potential six-month moratorium on any sale. Members of the community wanted time to put together the funds to make a bid to buy the pub themselves, something that they could do under the existing community right to bid. Deciding that they did want to try to buy the pub, the locals got help from the community shares unit and sold community shares in the pub via a crowdfunding-type website. They raised £720,000, well in excess of the £500,000 target that they had set themselves. They put in a bid, which was successful. In 2013, 536 shareholders who were customers, friends and staff bought the Bell Inn, and it continues as a vibrant small music venue which welcomes all visitors, and noble Lords would be very welcome. Greater publicity about the opportunities offered by the Localism Act, like those used by customers and staff of the Bell, could provide a route to help other small music venues that are under threat. I would be interested to hear the Minister's comments on that.

My second point is in relation to the agent of change issue, which has already been raised. As we have heard, the extension of permitted development rights eases the way for unused commercial, retail or industrial properties to be converted into housing. Where they are sited next to existing music venues, that can create a difficulty. If at all possible, the agent of change, the developer, should take responsibility for that. An analysis of the debate that took place on Tuesday shows that the Minister, Brandon Lewis, did not fully understand the situation. I am delighted that he has agreed to talk to the music industry and his colleagues in DCLG. But like my noble friend Lord Clement-Jones, I am interested to hear from the Minister whether those meetings will take place and what views he has on the particular proposal for the agent of change.

3.21 pm

The Earl of Clancarty (CB): My Lords, I thank the noble Lord, Lord Clement-Jones, for the opportunity to participate in what is a remarkably timely debate, both on account of the London mayor's rescue plan and the Commons debate on Tuesday.

The statistic of 35% of grass-roots venues lost in the last eight years in London alone is shocking. What we seem to have today is a perfect storm of spiralling

rents, valuable building sites, increasing business rates and untrammelled development. The fundamental questions that we should ask are: how much is a local area or local community affected in the round by any proposed changes? How much do people in a local area have a right of access not just to music venues but to live arts generally? If they do, is it a good provision or not? Also, crucially, how much is that local community itself being destroyed, since the arts are a part of that and are an important part of the definition of a locality?

In this respect, noise, if it is a significant problem, is a by-product of a more fundamental concern. Noise would simply not be a problem—or at least less of one—in a more cohesive community. Yet unfortunately it has become necessary to deal with it, which is why I would certainly support the agent of change amendments to the Housing and Planning Bill. In Tuesday's debate, the Housing and Planning Minister, Brandon Lewis, said that, although he was happy to meet with organisations, the proposed amendments were unnecessary because the National Planning Policy Framework incorporates the principle of agent of change already. But tell that to the Point in Cardiff. Actually we cannot do that because it no longer exists. It installed £68,000-worth of sound-proofing to stop complaints from the new development next door, but had to close because it could not afford to pay the loan. This should not have been the Point's responsibility. It seems clear that this will work and the agent of change principle adhered to only if there is something specific in law, as has been proposed by Dr Blackman-Woods and others. Otherwise, there is a huge danger that it will be overlooked.

What was not discussed on Tuesday in the Commons was the situation the other way round, which is what would then be the responsibilities incumbent on a new venue setting itself up in a neighbourhood, which of course sometimes happens when the already existing club has been forced out of the city centre and has had to relocate. It is surely better that a venue does not have to relocate in the first place but remains in the community where it belongs. The report to the London mayor is a valuable document with many worthwhile recommendations. I hope that both the London Assembly and the Westminster Government look at it closely. Music venues must be an integral part of the next London plan, and a night-time mayor is well-worth considering.

This is not a problem for London alone, as the noble Lord, Lord Clement-Jones, said. To take an example from abroad, with increasing gentrification, some of the same problems are starting to happen in Berlin, an equally vibrant city in terms of live music, even though there is less of a problem there. For instance, in Berlin I have been to what might be termed pop-up live music events advertised perhaps a few days beforehand. You go along, a makeshift bar materialises and you hear some amazing music, which could be anything from jazz to experimental classical or folk. Sometimes, it is a bit like wandering into someone's living room. This kind of flexibility would be unthinkable in London, but it happens in Berlin because the audiences for these events live next door, or even in the same building, and have not yet been

driven out of the centre of the city. Berlin, like many places in Europe, is a renting city, but additionally it has a strong rent-cap policy. We absolutely need to cap rents in London to help preserve our communities.

However, these problems also exist in other towns in the UK, and it is important to point out that live music can also be funded by local government, often as part of arts centres. Some of these venues may now be under threat of closure. It really is extraordinary how further real-term cuts in the arts can be broadcast as good news, although what is happening with local government funding is the worst news of all.

One example of these uncertain times is the situation in respect of the successful Electric Theatre in Guildford, developed as recently as 1997 by Guildford Borough Council as a community arts venue, allowing public access to different media, including live music. Instead of running it itself as it has done up till now, the local council intends to lease the site out, and has invited private bidders from the arts and entertainment sector. There will now be no guarantee that the balanced needs of the local community will be met. It seems that we are moving into the extraordinary position where, instead of local councils helping to fund the arts, the arts are now expected to fund local councils, which is, for much innovative art and music, frankly an impossibility. In the long term, such an approach will have a serious detrimental effect on the arts in the UK. It is a long way, too, from the principle that some of us have argued for of there being a statutory obligation on the part of councils to provide local communities access to the arts, which is becoming an increasing deficiency in many areas.

On the future of independent clubs, Mark Davyd of the Music Venue Trust, who runs the Forum, a music venue in Tunbridge Wells, and chairs the London mayor's report, has said:

"You can't blame people for selling up. The valuation of the Forum as a music venue is about £375,000. If we sell it to be flats, it is worth £1.2 million".

If short-term economic factors were the only consideration, we probably would not have any grass-roots venues at all, not just for music but for the arts in many media. Therefore, the question must be asked: how important is it to preserve our grass-roots arts venues for local communities, for the creative economy and, in the case of music venues, for the development of the music industry itself, which are all long-term goals? That is not to mention the long-term contribution made by such venues to the economic value of the local area itself, all of which is why this is an issue that cannot be left up to the open market. Grass-roots venues must be protected and nurtured through necessary legislation, through sensitive planning and, where necessary, through governmental financial support.

3.28 pm

Lord Berkeley of Knighton (CB): My Lords, I am grateful to the noble Lord, Lord Clement-Jones, for identifying this absolutely vital ingredient in our creative industries. Why is it vital? It is because the great companies of this country—opera houses, orchestras, and pop and jazz groups—are often seeded and nourished at grass-roots level. All the great talents have to start somewhere, and that somewhere is often in small venues up and down the country. I think of my visits

[LORD BERKELEY OF KNIGHTON]

to the Cavern Club in Liverpool, for example, where the Beatles, among others, found fertile ground to gain experience. I shall never forget visits to the Marquee in Soho, where I played and many more successful groups than mine took flight. I think of small venues at festivals like Cheltenham and Huddersfield and clubs in Manchester and Birmingham. I think of Club Inégales, a haven for contemporary composers in London. For many audiences, small venues offer the only opportunity to hear live music.

How I envy New York its plethora of small jazz venues and its resulting success with modern jazz; yet visit Ronnie Scott's or Pizza Express—and occasionally the House of Lords—and you will find here, in this country, a huge and healthy appetite for jazz. At a recent Classical Music meeting here in the Lords, we heard from Ed Vaizey. I was extremely impressed by his passion; doubtless this commitment helped inform the very welcome financial news regarding the arts from the Chancellor in his recent Statement, although I take my noble friend's caveat on board.

I did, however, point out to Mr Vaizey that because music commissions are very much now largely in the gift of major Arts Council clients, and since the devolution of commissioning funds, small groups and less well known or younger composers have rather fallen through a gap in funding. Indeed, small venues were often instrumental in commissioning new and promising talent. I and my colleagues had our early works performed—and what a learning process that is: to hear your music and hear the mistakes you are making—in music clubs and village halls before some of us found ourselves at the Royal Opera House or the BBC Proms in the Royal Albert Hall. Indeed, on one occasion I had a work premiered in a venue that I gather doubled as a strip joint and pole-dancing venue. I could not help thinking that perhaps hard-hitting contemporary music would have even bigger audiences if we could combine these two activities. But then, of course, I thought how much music plays a very vital role even in that.

We are not talking about a huge amount of money here, but small venues and commissions are financially the, if you like, soft underbelly of experimental and innovative creativity in this country. They are such an easy target for cuts and they exist on a knife edge, yet feed into and supply the income-generating companies that help to fuel the economy of which the Government are justly proud.

I have a request for the Minister. Ed Vaizey promised to take back to the DCMS the point about composers and the gap. I would like to go further and combine it with what we are talking about today. Therefore, will the Minister please talk to him about the way in which we can address these two issues together to see whether there is any way of protecting and nurturing the vulnerable but vital work of small venues and thus, in the long run, the overall future health of creativity in this country?

3.31 pm

Lord Addington (LD): My Lords, when you find yourself slightly further down the list of speakers, you look at your briefing notes and suddenly realise that

most of your points have been mentioned. Therefore, I am afraid that I will repeat some of the points that have already been made.

I have danced to the music of the band of the noble Lord, Lord Colwyn. Indeed, I remember that my wedding was greatly enhanced by the spontaneous spotting of accents in the room and the way that the music followed them. The sight of people in morning suits dancing reels will stay with me for quite a while. However, as noble Lords have said, we have lost 35% of our smaller music venues. That means that one in three has gone. Clearly, these venues are under pressure. This is not the result of intentional policy but a classic case of Murphy's law as the pressure on these outside bodies is leading to them being squeezed. If we are not going to subsidise them, we have to make the system work for them. I think that my noble friend Lord Foster pointed out that we should bring together the various parts of government and make them work together because it is clearly in nobody's interest to lose these venues. Some people will say that such a step is in their interest if it is to their perceived personal advantage. Nimbyism will always be present, but if we adopt something like the agent of change principle, surely we can put this in a sensible context.

Who has not chortled over their cornflakes at newspaper articles about people who move next to pubs then complain when customers leave them after closing time or who, better still, complain that the cows in an adjacent field moo? We need to state that if you move somewhere where a venue is already in place which is deemed to be good by the vast majority of people, you will have to live with it or make changes to your property that allow you to live with it. It is not beyond the wit of man in the modern world to install sound insulation in a property. The person who moves into the property should take on that responsibility. It is important to get that across.

On business rates and so on, we must encourage local authorities to think about the venue. What does the economic activity going on there mean to the local area? Are people spending money in it and does it provide employment? The figure may not be exact, but another statistic which has been mentioned is that more than 117,000 people are employed in this sector and deriving an income from the music industry. These venues make a contribution to local restaurants and other bars in the area. They do not stand by themselves, and surely that must be taken into account. You will get the odd venue that goes a little bit rogue and possibly needs some intervention to deal with it, but most of the time they are peaceful, law-abiding institutions to which people go to enjoy themselves. Ensuring that people appreciate what else is going on is vital to this.

It has been suggested that we should have what I think are called "night mayors". I love the idea of the first prominent person to hold that position. The cartoonists will have an absolute field day. I think the expression "night tsar" was used, which is a wiser way of putting it. It is probably necessary to have someone to co-ordinate leisure activities and the economic activity that goes with them because there are competing stresses on how all this is implemented. It is important that people are made aware of this.

We all know that the world is focused on us, and we are all very capable of losing our peripheral vision when it comes to changing situations. Making sure that we understand that music venues and the leisure activities that result from them are part of a wider economy would probably be the best thing we could do here.

There is a great deal of good will around this, and much legislative change has already taken place, but when the noble Earl comes to respond to the debate, can he give us an idea of how the co-ordination is being handled, how guidance is being produced and then pushed down to local authorities, and what help is being given to enable them to reach out themselves? This will cross boundaries for local authorities, so how will it be done? That is important because we are in danger of getting rid of something which is of great benefit all round. Whatever problems there are, they will be as nothing compared with the damage that will be done to a whole sector of our creative economy.

3.37 pm

Lord Stevenson of Balmacara (Lab): My Lords, I add my thanks to the noble Lord, Lord Clement-Jones, for securing this debate, and I thank all the music-loving Members of the House, of whom I am sure there are more than we have been able to squeeze in to participate in today's debate. Indeed, it has brought back fond memories of the first Bill that I was involved in, the Live Music Bill, which is now the Live Music Act 2012, which I had the honour of stewarding through from the Opposition Front Bench. Although I declare an interest as a rather part-time member of the Parliament Choir, I have none of the expertise so much on display of those with professional and semi-professional links who have talked about their experiences; I acknowledge how much that has contributed to our debate today. But all of us are here because we share a commitment to the sector in its widest sense, and I hope that that message is loud and clear for the Minister. This is a matter that cuts across all the parties and sectors of the House.

The unanimity of purpose in coming to the debate today has been echoed in a message that the Minister will have picked up, which is that there is common ground here. Grass-roots music venues play a key role in enabling some of the biggest names in music to develop as artists and to build their audiences. They are in some senses incubators, and so protecting these live music venues is crucial to our creative industries. As several noble Lords have observed, they contribute to a sense of place and they add to an area's desirability as a place to live, work and visit.

This is not just a London problem. Noble Lords have mentioned Cardiff, Lancaster, York and Edinburgh, and there are all too many others. We should congratulate the Mayor of London—I do so publicly today—on setting up the Music Venues Taskforce, which has informed so many of today's contributions. Perhaps in response to the point made by the noble Lord, Lord Foster, we should invite other cities to replicate this work and extend it so as to produce the evidence which I am sure would convince Ministers, even if they have not been convinced by what has been said in the debate today.

What exactly is the problem? There is a lot of concern and anxiety around this, and Ministers will want to be sure that they are in the right area on this. It seems to me that we have differential planning, licensing, policing and fiscal policies in play, which means that it is a struggle for those involved to balance the needs of grass-roots music venues with those of residents and businesses. All these are legitimate concerns. But without thinking through the policy implications, tensions are bound to arise. It is obvious that an increasing need for housing means that residential development is taking place cheek-by-jowl with existing night-time activity. This pressure, coupled with rising property prices and increasing costs for grass-roots music venues, is proving, as the noble Earl, Lord Clancarty, said, a perfect storm, and as a result venues are closing. This is a very depressing scenario. Everyone has argued that we want to do something about it, but nobody has come up with a very clean and obvious solution that would, with one stroke, solve this. I will just touch on some of the issues that have come up today and invite the Minister to respond to each of them.

First is the agent of change principle, which has received a fair amount of discussion. This puts the onus on the developer to mitigate any future problems which might emerge between newcomers to an area and long-standing local venues. Funnily enough, I came across this the other day on a visit, as part of my secondment to the Metropolitan Police, to an area on the outskirts of London which houses the police mounted brigade. It is fully equipped to look after horses, and obviously with horses come noise—in this case, a forge, which is not quiet but is used through the day and often at night. The adjacent industrial estate is going to be turned into a housing estate, and the Metropolitan Police is concerned that its existing practices and procedures will be affected by future complaints. This is not just a music issue, but is of wider concern.

A number of noble Lords mentioned the debate on the Housing and Planning Bill, in which the Minister, Mr Brandon Lewis, said a number of things about this. I will pick up a slightly different quote, which seemed to me to be a way forward. He not only said, as others have mentioned, that he wants to look further at the matter and has been working with the Minister for Culture and the Digital Economy but accepted that:

“If a business is working and a nearby building converts to residential housing ... It would be entirely wrong of the people who moved ... to complain about the business that existed before the residential housing was there”.—[*Official Report*, Commons, Housing and Planning Bill Committee, 8/12/15; col. 598.]

When the Minister comes to respond, can he update us on where discussions have got to on this point? There are opportunities coming up in this House which would allow us to take the point further, should that be appropriate.

On business rates, one thing that has not been mentioned up to now but which came up as a live issue in the recent Enterprise Bill—whose Third Reading is still to come—is the question of whether or not there will be action on the rating demands being raised by the VOA on grass-roots music festivals which operate on agricultural land. It is slightly tangential but it bears on the wider point, also raised by the noble

[LORD STEVENSON OF BALMACARA]

Lord, Lord Clement-Jones, about the way in which local authorities could affect the incidence of business rates not only on venues but on portable festivals. Again, could the Minister update us on where we have got to on this? I think the last statement on this was from the DCMS Minister, the noble Baroness, Lady Neville-Rolfe, who said that,

“if there are no permanent physical adaptations to the land ... and the duration of the festival is only a matter of a few days, it is unlikely to attract a rating”.—[*Official Report*, 2/11/15; col. GC 314.] However, that is not what is happening on the ground: ratings have been applied and they have been causing problems.

My fourth point follows the rather interesting point made by the noble Lord, Lord Clement-Jones, about the feeling in the industry, which I think is genuine, that there is overregulation of the activity here. It is easy to knock regulation—good regulation is essential for the proper functioning of a good society—but it may be that perhaps the better regulation unit in BIS could be asked to apply a task-oriented focus on this area to see whether it could come up with some plans for deregulation which would both satisfy the Government’s overall aim to have two out for every one in and relieve some of the problems of the music industry.

Finally, the noble Lord, Lord Foster, reminded us that music can have a restorative effect on social cohesion and health. Can the Minister sketch out for us what his department is doing to spread the word about why DWP, DH and CLG should be working with DCMS to make sure that music is supported in this way?

3.45 pm

The Earl of Courtown (Con): My Lords, I, too, thank the noble Lord, Lord Clement-Jones, for securing this debate, and thank other noble Lords for their contributions. The debate is particularly appropriate as the noble Lord was the parent of an important Bill that went through this House.

The future of small, grass-roots music venues is clearly an issue that attracts strong interest from this Committee and across the whole House, as was mentioned by the noble Lord, Lord Stevenson. I am fully aware of the important contribution that the live music scene makes, not just to the UK economy but to its overall cultural landscape.

Noble Lords mentioned the many venues that they have seen various acts at, and I should mention that many of those venues formed an important part of my youth, such as Friars in Aylesbury, where I remember seeing Cockney Rebel twice in one year. I also saw John Otway and Wild Willy Barrett, although I did not really get too much into their music, to be perfectly honest. More recently, I visited the Horseshoe in Clerkenwell to hear a folk singer from Courtown Harbour in County Wexford sing a song called “Lord Courtown”, which is about an ancestor of mine. Strangely enough, it was very complimentary about the famine work that my family did during those bad years.

Music is one of the things that makes our country great, and often provides a person’s first introduction to all things British. It is one of the principal reasons

that the UK is currently ranked number one in the global soft power index. British singers and musicians, as mentioned by noble Lords, provide the daily soundtrack to the lives of millions.

When I talk about talent, I am looking not just at the artists. This country provides the industry with outstanding producers, sound engineers, writers, arrangers, promoters, roadies and many others who are all part of the UK’s music ecosystem. Music tourism—not mentioned before in this debate—generated more than £3 billion of spending in the UK last year and sustained nearly 40,000 jobs. Last year, 546,000 people came here from overseas because of music, spending an average of £751 each.

The Government will carry on supporting and promoting an environment in which UK music can continue to thrive. I note that between 2012 and 2016, the Government will have invested £460 million in a wide range of music and cultural education programmes. We have moved to boost our orchestras with a new tax relief at a rate of 25% on qualifying expenditure from next April. The music export growth scheme helps independent music companies to reach overseas markets, ably assisted by the BPI and UK Trade and Investment—Mercury Prize winners Young Fathers being just one of the bands to benefit from the scheme.

Grass-roots music venues are a vibrant and vital part of our music ecosystem and our communities, as was mentioned by the noble Lord, Lord Foster, and others. That is why, since last year, we have reformed entertainment licensing to make it easier to perform and play live and recorded music. We have also noted calls for the adoption of the agent of change principle to protect music venues from noise enforcement when it comes to changes in nearby land use. I will say more on that later in my speech.

We have made changes to the National Planning Policy Framework, which now includes a specific reference to the need for consideration of existing live music venues when it comes to changes of use in nearby land. Additionally, the Supreme Court judgment in a common law nuisance case, *Coventry v Lawrence*, has made changes to the way nuisance law is interpreted in the 21st century. The judgment helps in emphasising that the regulatory regime must strike a balance between enabling people to enjoy music at well-run venues and managing any potentially adverse effects from noise for residents.

This is, as noble Lords have said, challenging, but we are exploring what more can be done to ensure that local authorities take all relevant factors into account, as in the case of Camden Council. Noble Lords have mentioned its 2010 strategy for Denmark Street, which acknowledges the street’s renown as,

“a centre of popular music instrument retailing”, its “unique and vibrant atmosphere”, and its significant contribution to the area’s “special interest and character”. It is right and proper that plans have been approved to bring the 12 Bar Club building back into use as a music venue, and planning permission has been granted for a brand new 800-capacity music venue directly opposite the site where the Astoria once stood.

Many noble Lords, including the noble Lords, Lord Clement-Jones, Lord Foster and Lord Stevenson, commented on the agent of change principle and the

debate that occurred in the House of Commons last week. I shall answer as much as I can on the issue, but I shall ensure that the substance of this debate is put to my colleagues in that department as well. This is a complex issue, which cuts across planning, licensing and noise protection regimes. We have looked into the planning provisions in Victoria, Australia, but they apply only to developments within 50 metres of live music venues, whereas the National Planning Policy Framework says that existing business such as music venues, regardless of distance, should not have unreasonable restrictions put on them because of changes in nearby land use since they were established. Elements of the agent of change principle already exist within planning policies and guidance and can already influence planning decisions, because planning law requires planning applications to be determined in accordance with the local development plan, unless material considerations indicate otherwise. National policy and guidance are material considerations.

The noble Lords, Lord Clement-Jones and Lord Addington, and the noble Earl, Lord Clancarty, drew the attention of the Grand Committee to business rates. The Government recognise that business rates represent a fixed cost that can be more burdensome during times of economic difficulty, particularly for small businesses. That is why my right honourable friend the Chancellor has extended the doubling of small business rate relief until April 2017, which gives targeted support to single, small properties. Some 600,000 eligible small businesses are estimated to benefit and 400,000 businesses will pay no rates at all as a result of the 12-month extension.

Local authorities also have the power to offer business rate discounts beyond predefined reliefs at their discretion. This is funded 50% by central government and 50% by the relevant local authority. We would expect local authorities to take full account of the funding provided by central government for discretionary rate relief when making their decisions. The Government are currently undertaking a review of business rates, which will be fiscally neutral and will report at a later date.

The noble Lord, Lord Clement-Jones, also mentioned deeds of easement, such as that in the case of the Ministry of Sound. It is a matter of choice for all the parties involved; every case where the potential exists for adopting such an approach will need to be considered on its own merits. It must be the decision of those affected as to whether entering into such an agreement is right for them.

Many if not all noble Lords mentioned the issue relating to cross-governmental co-ordination and the meeting to be arranged between my honourable friend Mr Vaizey and colleagues in the DCLG. My honourable friend remains committed to taking a delegation of music venue owners to meet the Planning Minister, and it is my understanding that the relevant ministerial offices are currently working to secure an appropriate date for the new year. Furthermore, I can confirm that officials from the department concerned have already met to discuss these issues on a number of occasions and, led by the Department for Culture, Media and Sport, we will set up further meetings to look at what can be done. As the noble Lords, Lord Clement-Jones, Lord Addington and Lord Berkeley said, co-ordination

between all those departments is so important; it does not involve just one department but a wide spread of departments. At the same time, we will look at better collection of statistics. As the noble Lord, Lord Foster, said, it is difficult to define these venues.

A number of noble Lords also referred to my honourable friend's mention of funding and access to funding during his participation in Venues Day this year, when he encouraged music venues to apply for Arts Council funding. He was, however, also clear that funding decisions are made by the Arts Council independently of government. The Arts Council already provides funding for a number of small music venues, such as Band on the Wall in Manchester, Cecil Sharp House in London and the Stables in Milton Keynes. Several noble Lords mentioned the Mayor of London's Music Venues Taskforce. It is not the intention of the Government to deliver a formal response to the Mayor of London's Music Venues Taskforce report.

The noble Lord, Lord Foster, raised the subject of the amendments brought forward in Committee in another place. As I have already said, the National Planning Policy Framework, supported by planning guidance, incorporates the agent of change principle by making clear that existing businesses wanting to continue and develop should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.

Lord Foster of Bath: My Lords—

The Earl of Courtown: I would be happy to try to answer the query of the noble Lord, Lord Foster, if he writes to me. The noble Lord also asked about assets of community value. This policy area falls within his old department, and I will ensure that the point is made to my colleagues in that department.

In closing—I realise that I have not dealt with all the queries put to me—I say to noble Lords that we want to encourage people to live in our towns and cities while at the same time enabling small grass-roots music venues to flourish, giving a range of musicians and artists a valuable opportunity to perform in front of a live audience and local communities a valuable social hub and cultural attraction. Although we have done much already to help music venues across the UK, we welcome the ongoing dialogue with the music industry on what more can be done to protect those venues.

3.56 pm

Sitting suspended.

Energy: Security

Question for Short Debate

4 pm

Asked by Lord Bowness

To ask Her Majesty's Government what they consider to be the roles of the Energy Community and the Energy Charter in improving energy security and alternative supplies and sources of energy for the member states of the European Union and its neighbours; and what is the extent of United Kingdom involvement in both organisations.

Lord Bowness (Con): I thank the Minister and his Whip, and the noble Lord, Lord Grantchester, for attending this debate and allowing me the unusual opportunity of knowing that there at least two people who will listen to what I say.

When I was appointed to the Energy and Environment Sub-Committee of the EU Committee—I make clear that I am speaking personally and not as a member of the committee—in the course of attempting to catch up with EU energy issues, I came across the Energy Charter and the Energy Community. This was at a time when the need for more and new sources and supplies seemed an urgent priority in the face of Russian actions in Ukraine and the ups and downs of the various new pipelines. The more I read, the more I felt there was more that we should know about both these organisations.

Both organisations may be familiar to other Members of the Committee but they were not so to me and indeed the more I looked into them the more questions arose than I have time to pose this afternoon—although I am not sure whether the personal time limit trumps the overall time limit for this debate. Should I sin in one direction, I shall assume that the overall time limit is what controls our proceedings.

I turn first to the Energy Community. This is an international body dealing with European energy policy. It was established by a treaty signed in Athens in October 2005 that came into force in July 2006. The parties are the European Union and eight other countries of south-east Europe, the Black Sea region and beyond. It seeks to extend the European Union internal market rules to interested non-EU countries in Europe and beyond. Its own website says that the role of the community is to:

“Attract investment in power generation ... Create an integrated energy market allowing for cross-border energy trade ... Enhance the security of supply ... Improve the environmental situation in relation with energy supply ... Enhance competition”.

Those are all aims to which I presume the United Kingdom Government would subscribe.

Although the European Union is the party to the treaty, not the individual states of the Union, all the European Union states may take part in the various institutions of the Energy Community. I was therefore a little surprised by the Answers that I received to a number of Written Questions which I put down in the previous Parliament. In asking who represented HMG in the gas, oil and social fora of the Energy Community, I was told that the UK does not participate in those fora and that the EU Commission represents the EU member states’ position. I also asked who was our non-voting representative on the Energy Community regulatory board. I was told that we were not represented and that the European Commission represented the EU member states. I asked who was our representative on the Permanent High Level Group of the Energy Community and was told that an official from the Department of Energy and Climate Change attends this group when issues to be discussed require the United Kingdom’s attendance. Lastly, I asked who attended as our representative at the annual Ministerial Council and was told that it was an official from the department.

Although those Answers were in many ways a welcome recognition of the role of the European Union in these matters, I must ask the Minister, if our participation is so limited, what our assessment is of the value of the organisation. Is there not a case for greater United Kingdom involvement given our interest in the security of supply, not just in the United Kingdom but in the European Union and its neighbours as a whole?

For what may have been the first time, the department wrote to the European Union Select Committee in September this year, advising it of the agenda for the Ministerial Council of the Energy Community which took place on 16 October. The letter tells me that the European Union position on items was agreed by the Council of Ministers and that the United Kingdom Government supported the proposals, which included reform of the institutions and their working methods.

Can the Minister advise the Committee of the outcome of the Ministerial Council and in particular about the proposed procedural act to organise a meeting of representatives of Parliaments to formalise the existing network of parliamentary co-operation? Is it the intention that this role will fall to the European Parliament, not Westminster? Where and how does the Energy Community relate to the European Union’s own energy union policies? How does the work of the Energy Community relate to the work of the Energy Charter?

The Energy Charter dates back to an initiative of the early 1990s. In 1991, the Energy Charter political declaration was signed in The Hague, followed by the treaty, which was signed in December 1994 together with an important Protocol on Energy Efficiency and Related Environmental Aspects. The treaty came into force in 1998. It aims to encourage and facilitate international cross-border co-operation on energy and represents an important international effort to build a legal foundation for energy security based on open, competitive and sustainable development.

The Energy Charter’s website lists its basic elements as investment protection—through ensuring a firm legal framework—stable energy flows and increased energy efficiency. Unlike the Energy Community, 52 member states, from Europe and Asia, have signed or acceded to the treaty. The United Kingdom is a signatory, together with the European Union and EURATOM. Observer states include the United States of America, Canada and other non-European Union states. Apparently a modernisation process was launched in 2009, and in 2014 negotiations started on an updated charter. Can the Minister advise us about the updating process and our involvement in it? Can he tell us more about the working of the organisation, including the Energy Charter Conference, which has political responsibilities for the implementation of the charter working groups and ad hoc committees? I wonder who attends that.

It is worth noting that this is perhaps more important than may appear at first sight, because Russia chose to withdraw from the treaty by presidential decree in 2009. That clearly had serious implications for countries supplied from the Russian Federation, given also the provisions in the charter for resolving disputes. Will the United Kingdom attend the ministerial meeting of

the charter in Georgia on 15 December, one day of which is devoted to fostering regional co-operation through cross-border energy trade?

I repeat the questions that I posed with regard to the Energy Community about who represents us, if at all, and when and where. What value do we place on the organisation and how does it relate to the Energy Community and the European Union's Energy Union? It seems that there is considerable overlap between the two organisations, if not in the work they do, at least in their stated objectives. Do the Government have a view about that?

Lastly, I hope that the Minister will be able to tell us more than I have managed to research or had time to cover this afternoon. Does he agree that these are matters which should be of considerable concern to the United Kingdom and about which Parliament should know rather more than it is currently told?

4.09 pm

The Earl of Erroll (CB): My Lords, I wonder if I could speak in the gap, since the debate is rattling on quite quickly. I have two points. First, having lived in a world some time ago when we were not worried about terrorism or problems like that—and I now live in an IT world—how on earth one secures the transmission of the gas or whatever it might be through potentially hostile territories, particularly in an internet world where these things are controlled electronically, is extremely difficult. Since one has no power, particularly to enforce certain security levels in other countries that might be travelled through, there are huge vulnerabilities. I feel very sorry for the people who try to do this. I know that we have some very good people working on it, and I just hope that they manage to keep us secure, because we are highly vulnerable with the route from some of the supply fields all the way to the UK. At the end of the day, we are at the end of the line.

Secondly, I want to put in a plug for something. This morning, I was speaking at the Institution of Engineering and Technology on the internet of things, and one of the interesting things that came out of this with machine-to-machine communication was the concept of the virtual power station. I ought to declare an interest as chairman of HyperCat. That is short for Hyper-Catalogue, which it is about machines communicating interoperability on the internet of things. This might sound off the point, but if we can start to look at the energy requirements and start to move it around a little, we can save ourselves the need to fire up a power station at certain moments. I throw that in because we were talking about alternative supplies, whereas this is far more important: the high-level stuff and the negotiation of treaties.

At the practical end, where I live a lot of the time—I am not expecting any answer to this at all because it is left of field for this particular debate—there are technologies out there and new things coming along. The Government should look at some of the funding for what we call the internet of things, which, at the moment—although it sounds techie—is climbing up the degree of importance. It could really help in areas such as this when talking about alternative supplies: not because of the supplies, but because of the savings that can be made. Therefore, I make a quick plug for

new technology and perhaps government funding in the next spending round. That area is doing quite well thus far; it could do better.

4.11 pm

Lord Grantchester (Lab): My Lords, I thank the noble Lord, Lord Bowness, for tabling this important Question today, for his interesting introduction, and for his continuous probing into lesser-known forums for energy discussion. I endorse all of his questions to the Minister and I thank the noble Earl, Lord Erroll, for joining our debate today.

While the Energy Community is essentially an enlarged EU platform to expand the EU's internal energy market to nine states in south-eastern and eastern Europe, the Energy Charter is an independent, international, intergovernmental organisation of 52 states in Europe and Asia, including the Russian Federation. Those can play a major role in expanding the energy borders of EU energy policy through co-operation and alignment for a more secure and resilient world. Both can focus on the promotion of investment, stable energy flows and increased energy efficiency.

The Energy Community has an interesting approach to its various categories of membership: 19 of the 28 EU member states are participants, including the UK, while four EU neighbours—Armenia, Georgia, Norway and Turkey—are observers. Georgia has applied to join the Energy Community as a full member. Will the Minister comment on the fact that not all of the EU member states participate? Do the Government consider that this non-participation of some member states reduces the influence and work of the Energy Community? How do the Government approach the question of whether Georgia should be granted full membership against the background of turbulence in Ukraine and Crimea?

The Energy Community is taking the EU-model approach to a wider area. While this should perhaps not be interpreted as a precursor to widening membership of the EU, it nevertheless establishes a wider commonality of approach in this vital area of energy policy, decarbonisation and climate change. It is good timing by the noble Lord, Lord Bowness, that he has initiated this debate while the climate change talks were taking place in Paris. The Energy Community is tabling various EU directives and seeking application to eastern Europe through timed convergence within the region. For example, on electricity, community directives set minimum requirements for the establishment of competitive markets, including the development of coherent, transparent and non-discriminatory security of supply policies.

On the gas sector, the Energy Community is seeking the unbundling of transmission system operations over the next two years. On the environment, directives are identifying and assessing the environmental consequences of projects before any building or operation permit is granted. The Energy Community is presently preparing for the adoption of directives on energy efficiency, setting energy-saving targets into the future. Similarly, contracting parties of the Community are under an obligation to introduce rules to place competition on three pillars: first, the prohibition of anti-competitive agreements; secondly, the prohibition

[LORD GRANTCHESTER]
of abuse of a dominant position; and, thirdly, the prohibition of state aid. The Energy Community is also replicating EU policy with binding national targets for renewable energy in the electricity, heating and transport sectors, and with binding sustainability criteria for biofuels. The lessons of these developments of the EU policy have very much been learnt, with sustainability criteria to be verified by a dedicated body according to the rules.

On bringing coherency to a wider region, the Community is reviewing its dispute settlement mechanism. Four dispute settlement cases are currently open, and another 11 cases have been brought forward. To help implementation and enforcement mechanisms, the Energy Community has established a high-level reflection group to overcome shortcomings. Does the Minister agree that this should improve the effectiveness of the Community, and which states are members of the group?

I ask the Minister to expand on the questions posed by the noble Lord, Lord Bowness, in the Written Questions he referred to in his speech which were answered by the noble Baroness, Lady Verma, in March this year. The Answers suggest that the UK uses its influence only indirectly as a member of the EU, and it is the EU collectively, through the Commission, that engages with the Energy Community. This must surely dissipate the UK's voice. Yet in another Answer the noble Baroness, Lady Verma, suggests that an official from the Department of Energy and Climate Change represents the UK at the annual ministerial Councils. Would the Minister clarify this position, and tell us what grade of official would undertake this assignment? Would ministerial attendance enhance the UK's role at these meetings?

The Minister of State for Energy and Climate Change in the other place attended the European Energy Council in Brussels at the end of November. Discussion items included energy labelling regulations, electricity market design, the role of smart meters and a possible further EU-level instrument to address any anticipated shortfall against our 2030 renewable energy target. Many or perhaps all of these items could be of significance to participants in the Energy Community. How does dialogue at Energy Council level feed into the operations of the Energy Community? The development of interconnectors between supply grids is increasingly important to the security of supply, bearing in mind the high import dependency of many members of the Community. Interconnectors are regarded as key components of a national infrastructure. Do the Government consider the legal basis underpinned by the Energy Charter sufficient to provide jurisdiction between states?

The Energy Charter treaty plays an important role as part of the international effort to build a legal foundation for energy security. The noble Lord, Lord Bowness, said in his introduction that this treaty is acceded to by 52 states, the European Community and the European Atomic Energy Community—EURATOM—totalling 54 members including the Russian Federation. Observers to the recent conference included many more, such as the United States, China, Saudi Arabia and the UAE, among others. There is now a clear conviction among the contracting parties that

the Energy Charter treaty is set to become an important instrument for global energy governance. The Astana Declaration of the Energy Charter Process for Global Energy Architecture is a political document which will guide the conference over the coming years. The conflicts in Crimea and south-east Ukraine have grave political consequences, with a negative impact on energy co-operation and will reshape relations between the EU and the Russian Federation. The resulting sanctions and the development of a mechanism for amicable dispute resolution must enhance the authority of the charter.

Bearing in mind that the 26th charter conference, which took place on 3 and 4 December, coincided with the Paris climate change conference, can the Minister confirm whether the UK, as a member state, attended, and was this at official level? As the EU is also a member, what representation was there in that regard and how do the UK Government make their voice heard through this participation? Will the Minister provide the House with a report on that conference? Did it decide on any new instruments and joint initiatives within the charter framework? What approach are the UK Government taking towards the Energy Charter activities?

Here in the UK the Government are resetting their energy policy and causing considerable anxiety. They have scrapped their flagship Green Deal home improvement fund and the zero-carbon homes policy. They have been warned that premature cuts to renewables subsidies have created a climate of uncertainty for renewable energy. Indeed, the CBI has recently condemned the Government's policy-making for destroying investor confidence and blocking low-carbon energy infrastructure, while encouraging high-polluting diesel generators to enter the capacity market. At a time when stability and coherence is so needed at the international level and these new cross-national developments need careful support and guidance, the UK Government need to be aware of not diminishing their voice on the international stage.

Labour would argue that the UK needs to develop and implement a long-term energy plan. The UK faces a huge challenge to its energy supplies as sources of power come to the end of their useful life. We need a diverse energy mix, balancing the dilemmas of affordability, decarbonisation and security to power the economy and ensure the transition that meets climate change targets. The noble Lord, Lord Bowness, has highlighted the important frontiers of EU energy competencies in which, we believe, the UK should play its full part.

4.22 pm

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, first I thank my noble friend Lord Bowness for raising this important topic in the House, and the noble Lords who participated in the debate. I thank particularly the noble Earl, Lord Erroll, for ensuring that participation has gone up 25% just by being here. We are most grateful for that.

Because of the reference by the noble Lord, Lord Grantchester, to what is happening in Paris and the importance we all attach to that, before coming to the

substance of this importance debate I will first say a little about that. I was there until yesterday evening, so I know that very good progress is being made. Issues of domestic policy do not often come up, but in so far as they came up in any meeting that I attended, the thing that seemed to have caught the attention of other participating states—every state in the world bar North Korea—and that had landed well and pleased other states, was our decision to withdraw coal-fired power stations by 2025, in so far as that is achievable while ensuring energy security. That brings us back to the substance of this debate, which is clearly about secure energy, so let me say something about that and then try to deal with some of the points made. Where I cannot deal with them—that will certainly include the answers given by my noble friend Lady Verma earlier this year—I will ensure that a full response is sent to all those participating in the debate.

Secure energy supplies at affordable prices are a critical issue for any country or region, and I welcome the opportunity to discuss the role which the Energy Community treaty and the Energy Charter treaty play in our energy security, which is the essence of both treaties, though they come at it with different types of provision.

In 2013, to put this in context, the EU energy market imported 53% of its energy requirements, a figure which may well grow in the future. As such, access to secure supply sources is key, a point which all noble Lords who participated in the debate have made. This is particularly the case for gas, of course. As a commodity which can be supplied only by pipelines that are laid and from import terminals that exist, it is, and should be, a focus for EU energy security improvements. A total of 29% of the gas consumed by the EU comes from just one country; namely, Russia. It is also the key supplier to many countries close to the EU where customers have no choice of supplier. They also have less power to determine the price, timing and amount of gas they receive. In short, they have insufficient energy security.

The better connected the internal EU gas market is, and the stronger the links across the area, the easier it will be for gas to flow where it is needed at affordable prices. The Energy Community treaty and the Energy Charter treaty are two important tools to address this issue. Perhaps I may turn first to the Energy Community treaty of 2005 which was set up to extend EU energy market liberalisation to non-EU countries such as Montenegro, Albania, Serbia, Moldova and Ukraine. Assisting these countries to liberalise their energy markets in line with the EU approach has multiple benefits. These include making trading across borders easier, and helping to attract investment into much needed energy infrastructure. Assisting the liberalisation of these markets is particularly advantageous to the United Kingdom and EU energy security as the non-EU countries that are party to the agreement are situated on significant routes between gas and oil producers such as Azerbaijan, Kazakhstan, Russia and the Middle East, and customers in the EU. It is for this reason that the United Kingdom is a strong supporter of the Energy Community treaty.

We engage fully with the objectives, but of course it is the EU that is a member rather than member states as such, so we attend EU meetings to make policy on

Community objectives. At the moment, the Energy Community is focusing on additional EU energy legislation such as the energy efficiency directive to ensure that it is properly enshrined in the Community. It will have particular value in reducing emissions in countries such as Ukraine, which is the least energy-efficient country in the whole of Europe. Other reforms include strengthening the dispute settlement procedure and strengthening our engagement with Parliaments and civil society organisations. We consider the reform programme that is being put in place within the Energy Community to be sensible because it will improve the functioning, usefulness and transparency of the Energy Community treaty. These are basically the outcomes of the October Ministerial Council, and the EU position is very much in line with the UK position, so the UK is wholly on board for that.

In essence, the Energy Community treaty aims to improve competition, encourage liberalisation and support energy consumers. It is a key way of reducing the market power and associated political influence of any single energy supplier. With greater market integration and investment in new infrastructure, gas should flow to where it is needed following price signals rather than political signals. This is very central to our aims. The secretariat, which is essentially funded by the EU, holds significant expertise on both Energy Community members and on EU energy regulation. It is a trusted leader on reform in the region. We believe that this expertise is already benefiting south-eastern European states, and therefore the whole of the EU, so it is making a significant contribution to energy security.

For example, Serbia, Ukraine and Albania have transposed the EU's third energy package, which includes market reforms and is challenging the dominance of the incumbent energy suppliers. Ukraine has also adopted gas liberalisation laws in compliance with EU laws. The Government are committed to playing our part in this process, and to that end we have funded a project with the Energy Community secretariat that assists Ukraine in improving its electricity market legislation. That is a key stepping stone in Ukraine's wider reform process. Ukraine's energy sector is a major source of revenue but it is also, as I have indicated, extremely inefficient and poorly regulated, wasting valuable resources and putting off external investment. This is one way of demonstrating the United Kingdom's commitment to the Energy Community and its treaty.

Let me move now to the Energy Charter treaty, which has many similar aims but is a quite separate organisation. It was agreed in 1994, essentially in the wake of the break up of the Soviet Union, to promote international investment in the energy sector in eastern Europe and central Asia. It established legal rights and obligations with respect to energy investment and the trade and transit of energy goods. As has been said, there are 54 treaty members, including European and Asian countries, as well as EURATOM. Groups have signed or acceded to the Energy Charter treaty. Russia provisionally applied the treaty until 2009, but Members will be aware that there is a dispute at the moment in relation to Yukos, and Russia is no longer a treaty signatory having come out of the treaty process.

[LORD BOURNE OF ABERYSTWYTH]

The treaty enshrines in law a mutual commitment not to discriminate against foreign investors. If an investor has a claim against a member of the treaty in relation to the provision of energy—by pipeline or whatever—this provides the mechanism for settling that, and there are rights and obligations set out in the treaty to help with that.

Another key area of the treaty's provisions is energy transit. Building on World Trade Organization rules, the transit provisions oblige participating states to take the necessary measures to facilitate the transit of energy. Essentially, those measures are between states—for example, between the states of central Asia and the states of Europe. Therefore, the treaty deals with investment-type disputes between individual investors and a state, and also provides mechanisms between states in relation to energy transit. There were some specific questions about how we engage fully with this, and we do that both through the EU and as a separate member.

There were also questions about the conference—I think it has just happened rather than is just about to happen. This year, it was in Georgia, and last year it was in Astana in Kazakhstan. Although it is open to Ministers to go, for a number of years, the general process has been for a Minister not to go but to send a messenger. That happened this year and last year, and we were represented at higher executive officer level. I think many other nations do that too.

Although the conference is important, I am sure noble Lords will appreciate that, this year, we had the run up to what has been a very important process in Paris. That has engaged politicians across the board and, in particular, the Government. In the case of the Government, my right honourable friend the Secretary of State has been in Paris practically throughout the process, and I have been there for a considerable time. Therefore, the Minister of State has necessarily been doing a great deal of business in the United Kingdom, not least with regard to the flooding situation, to which they were central to helping deal with that and the necessary action that has followed. However, we have been well represented at the conference.

I will ensure that noble Lords get a detailed response as to exactly what happened in Georgia. An annual report is published, and those noble Lords who picked up the pack—I see that the noble Lord, Lord Grantchester, has his—will have seen a copy of the report on last year's conference. We will make sure that we get a detailed breakdown of what happened this year for noble Lords.

My noble friend Lord Bowness asked what was happening in the process of making changes to the Energy Charter and updating it. The process has been largely about updating the language; I do not think that there is any fundamental change. For example, it has not been updated since the USSR was no longer the USSR, so there has been a tidying-up exercise. I do not think it is much more fundamental than that but, if I am wrong, I will certainly let noble Lords know when I write to them. That is the basic position.

I hope that that has dealt with most of the points. If I have missed anything, I will ensure that we pick it up in the write round. I once again thank my noble friend

Lord Bowness for bringing forward this very important issue. I will ensure that he gets a full reply in relation to the points raised in the questions to my noble friend Lady Verma, and any other points that I have missed. I thank noble Lords for contributing to the debate on this key issue.

In closing, noble Lords will know that we are, as a country, focused on three essential aims: affordable energy, secure energy and green energy. The top priority, as set out by my right honourable friend the Secretary of State in her recent speech, is energy security. This debate, therefore, has been particularly timely and helpful.

Business Community

Question for Short Debate

5 pm

Asked by Baroness Greengross

To ask Her Majesty's Government what assessment they have made of how the business community can contribute to resolving the major challenges facing the United Kingdom.

Baroness Greengross (CB): My Lords, I am sure that all of us in this House are seeking a fairer and more sustainable future. I seek to shed some light on how business can have the greatest impact on some of the big issues involved and be drivers for change where it is needed. Many of the examples I know are through the All-Party Parliamentary Corporate Responsibility Group, which I co-chair with Jonathan Djanogly MP, and which I have been privileged to lead since coming into your Lordships' House.

In the time available, I can comment on only a very few of the challenges that we face. However, creating meaningful employment is surely one of the most significant ways in which business can contribute to the lives of individuals and communities. For many, it is the only sustainable route out of poverty, as we know, and many businesses proactively help people to gain sustainable employment by building skills, removing barriers to work and making the workplace more accessible for disadvantaged people. One example is Ban the Box, an employer-led campaign to remove the criminal record tick box from application forms. It is a brave and, understandably, often very controversial measure to which, since October 2013, 55 employers have committed themselves. Some 10 million people in the UK have some sort of criminal record, and research suggests that 75% of employers discriminate against such people. When employers Ban the Box, they encourage only a candidate's skills and abilities to be seen.

The Land Securities Group, a winner of the 2015 Responsible Business Awards, developed its London employment strategy to help disadvantaged people get jobs and to improve the mix, in terms of gender, ethnicity and disability, of entrants into its industry. The strategy has trained 656 people through sector-based work academies designed in partnership with further education colleges, and already 511 of these people have progressed into work.

We all know our population is ageing, with 10 million people in the UK over 65, a number that is projected to double by 2050. Through Business in the Community's Age at Work programmes, businesses are seeking to meet these challenges and reap both commercial and social rewards. But much more still needs to be done, especially for the over-50s, who do worse in this respect than those over 60. That may seem a bit surprising, but it is a fact.

As we know, black, Asian and minority-ethnic people are under-represented at every management level in the workplace. One in eight of the working age population is from such a background, yet only one in 10 is in the workplace, and they hold only one in 16 top management positions. BITC is, to its credit, doing much work in this field.

Both industry and the economy have changed extensively in Britain in recent times, but benefits and problems have not been equally felt. More work needs to be done in how we source goods and services. The retail sector, especially the food sector, has led the way in this, but much more is needed. For example, the Arc access programme connects social enterprises with business to share expertise and innovation, leading to employment opportunities and local regeneration. The programme has already created 3,000 jobs. BITC's Healthy High Streets programme will provide intensive support for 100 high streets and help them to realise their potential in our rapidly changing economy.

Business can also help create and develop economically viable and cohesive communities by supporting young people in schools. For example, an initiative called Business Class brings business and schools together to support young people facing disadvantage. I have had a lot of the people involved in this at two receptions here in the Lords, and it is really impressive; it supports 450 schools, impacting on 140,000 people who leave school with a much better understanding of work through knowing at least one business really well. The businesses get incredibly involved with the schools they support, forming long-term relationships.

At this point, I pay tribute to the noble Lord, Lord Baker, and his role in the development of university technical colleges, which are very important. They develop the skills needed by business and industry through training young people between 14 and 19 years old to ensure that they are qualified, ready to work, proud of their achievements and geared to today's society and its needs. This is a good example of business working with the public sector, which funds the development of these colleges, and which are then very much supported by businesses.

There are many other ways that responsible business can and does all this. We are very aware, for example, of the devastating impact of recent weather patterns. National Grid and the rail industry have worked day and night to restore services to people in the north-west of England. We tend to take this heroic effort for granted, but it is a great example of responsible business in action. The clothing sector is another example, in what it is doing in tandem with WRAP to promote recycling in very many rather exciting ways.

The British food industry is yet another example, with the great success it has achieved in supplying affordable food. Hopefully, it can now turn its attention

to doing more to provide healthy food—food lower in sugar, fat and salt—and to assist and promote healthy eating. At the same time, it should stop promoting unhealthy food, especially to children. The amount that the food industry spends today on promoting unhealthy food vastly exceeds what we publicly spend on promoting healthy eating, and rather nullifies the good work. The obesity and diabetes crisis that is occurring under our noses could well bankrupt the NHS in 30 years' time unless we take urgent action now.

One of the challenges that the All-Party Parliamentary Corporate Responsibility Group has faced is that MPs have not recognised fully their potentially critical role in terms of the leverage and the power that they have in working in their constituencies with the business sector to address many of the challenges we all face. As a result, we, the officers of the group, created an awards scheme last year to recognise best practice, with nominations recommended in each case by MPs. This was enthusiastically taken up by MPs. The first winner was London City Airport, in recognition of its very impressive activities that benefit the area in which it is situated. We were delighted at the number of schemes that MPs nominated and have great hopes for future years.

In all of this, we must not forget that truly responsible business practice should also include setting an example by living an example. Maybe this is a subject for another debate, but business must demonstrate that it has a responsibility to society, not merely in the way it interacts with people but in the way it organises and runs itself: to take one simple example, by paying tax in the UK on monies earned in this country, even if it could evade that payment.

Today, I ask the Minister to focus on areas of policy where government can support employers to drive real change. This should include better integration of health and social care services with employers and employment support services, and enhanced statutory flexible working, to enable people to remain healthy and in work and to work longer. We also need a cross-government national skills strategy for older workers, and for race to be added to the UK Corporate Governance Code. There will be many other ways our Government can help all of us in this, and I am confident that the Minister will soon bring to us many such ideas. I thank her in anticipation of her doing just that.

5.09 pm

Baroness Lane-Fox of Soho (CB): My Lords, I thank the noble Baroness, Lady Greengross, for her wide-ranging and inspirational introduction. I hope to be a ray of sunshine in today's debate on a rather gloomy afternoon.

I was reflecting on how quickly the business landscape has changed in my career since 1994—it feels rather long, although I realise that it is still relatively short. Even when we started our business, Lastminute.com, in 1997, the idea that we should build in any kind of social responsibility right from the beginning would have been strange, and yet I was somebody who, I hope, had always had that value at my core. When I think about the start-ups at the time and the energy and excitement with which they were being built, very

[BARONESS LANE-FOX OF SOHO]

few had a social purpose or the idea of corporate social responsibility hardwired into them. How things have changed.

I was reflecting on the biggest challenges faced by the UK. In an attempt to be ambitious, I picked out the three that I reckon will be hardest to solve over the next 50 years—climate change, gender equality and the technology disruption that we all face. From every angle, each of those challenges is being addressed in a profound and interesting way by businesses, beyond the core nature of their daily commercial life.

Before talking through some examples that I know in detail, I declare an interest as a board member of Marks & Spencer, which is world class in addressing some of the big structural challenges that we face, particularly climate change. Marks & Spencer was one of the first companies to declare itself carbon neutral; to make all its stores carbon neutral; and to launch huge programmes of recycling. Fashions could be brought back to stores and sent back to factories to be remade into other things. It has huge programmes beyond the UK's shores to help people in countries where we have supply bases. It is one of the first companies to have a really robust and transparent view of every single worker in the supply chain and deployed in the company. The company has an extraordinary and profoundly important influence on the landscape of British business.

Your Lordships may not be aware that, most recently, Marks & Spencer has worked with a new organisation, the Blue Marine Foundation, which is creating huge marine reserves around the world, particularly with commercial and private money. It has created one of the largest protected areas around Lyme Regis to bring back the fish stocks. Fish is already being supplied to Marks & Spencer's stores, and the fish stocks in Lyme Regis are being rejuvenated with incredible speed.

Marks & Spencer is one example of how a company has taken a huge lead on climate change. Because of that, it has been asked to be part of a global force for good: collectively.org, of which some noble Lords may be aware. It is a website for younger people sponsored by some of the biggest companies in the world but with an absolute focus on the big social challenges that young people are interested in, including climate change. Everything from Coca Cola, to Intel, to Marks & Spencer comes together to help share stories about how to change the world and make it a better place.

The next huge structural challenge that I want to talk about is gender equality. There are so many examples of corporations taking the knotty and important issue of how to encourage more women into work and make sure they are paid the same and not only reach the boardroom but have equal access when they first start work. When I asked on Twitter for some good examples in the UK, I was struck that the only example that people could give that was tangible and not just pontificating and making signals about the direction of travel was Arup engineering, which I thought was interesting. From the beginning, it has had the ambition to recruit women as 40% of its engineering workforce. Apparently, it is very successful—something I was not aware of.

One of my favourite global examples is Intel and its Girl Rising project, which is hugely successful on social media. It is an enormous programme of work with lots of different examples of women all over the world, from Africa to India to south-east Asia, doing incredible things. There is a big programme of funded education for women in work. We need those programmes here in the UK.

The third challenge and perhaps the one that I know best is the technology disruption, which I think many noble Lords wish had never happened—but unfortunately we are stuck with the internet, with all its wonders and some of its woes. I have recently been working on basic digital skills. My noble friend referred to that in her speech, although not directly. We face a profound challenge of skills in this country. As I have said before, the House of Lords—unlike me, not given to hyperbole—described the skills challenge as a “crisis”. That is true the whole way through the chain from basic skills through to how we will fill the 600,000 empty jobs right now in the tech sector and the 1 million jobs that will be empty by 2020.

The issue of basic digital skills is what I have been working on most urgently. We have 12 million adults in this country who cannot use the internet to get the basic benefits of being online, such as saving money—£100 a year even in the poorest households—getting work, because 90% of jobs are advertised online, and just communicating and being safe, as all of us like to be. However, what I have had most success with is the establishment of a charity called Go ON UK. It is entirely paid for by the corporate sector. We have 10 CEOs round our boardroom table from EE to Talk Talk, the Big Lottery Fund, Age UK, E.ON and Lloyds Bank. They all turn up and are dedicated to the cause and we are beginning to make some real inroads. We have created platforms and data to show where the profound problems are, and a heat map so that we can see where digital exclusion exists. We are doing deep dives around areas of the country where we are trying to create places where everyone is brought online.

Noble Lords can imagine that the power of the network of people around the boardroom table is very interesting. When we match the Post Office with Lloyds Bank and messaging from the BBC, we can really begin to create change, because we are able to reach consumers from lots of different angles, not just using the government lever. I firmly believe that this joined-up working will solve problems, and Go ON UKs CEOs around that boardroom table are dedicated to doing just that. I hope that that is a robust and good example of where business is changing.

When I think back to all of the start-ups that are energising the UK—as I am sure the Minister will tell us, there are practically more start-ups in this country than in Silicon Valley—it is an exciting time to be starting a business in the tech sector. Those start-ups come to fruition with a very different set of moral values: it is interesting. Younger people are just more cognisant of the complicated issues that they face and the complicated landscape in which they will operate. I am heartened. An incredible programme has been set up by Founders Forum, the Founders Pledge, which is getting people starting businesses to say that, at exit, 2% of the value of that exit will go to good causes.

With £100 million businesses, that can have a really interesting effect. It already has 156 signatories, so I hope that that will lead to real change.

I am also much taken by a good piece of recent research by a media company called Adjust Your Set into what millennials are thinking about business and social purpose. Some 70% of millennials say that they do not want to interact with a company that does not show what its social purpose and value in the world is. I would caution any organisation to take big heed of that, because their consumers of the future will not be their consumers unless they rethink how they position themselves in the world and the wider responsibility that they have as a corporate.

The world is changing. We have some big challenges and I am particularly keen to hear from the Minister how we can keep reducing the silos between the corporate sector and the charitable sector. I have recently started a new organisation, Doteveryone. Even applying for status, whether as a limited company, a CIO or a charity, is just too complicated—it is still far too difficult to do different things. But I am an optimist and I believe that the world is changing in the right direction.

5.18 pm

Lord Taylor of Warwick (Non-Aff): My Lords, I thank the noble Baroness, Lady Greengross, for initiating this important debate today. I have long admired her work across a number of areas, such as equality, elder care and corporate ethics. It is also a pleasure to follow the noble Baroness, Lady Lane-Fox of Soho, who is a true champion in the cause of digital online skills.

I take noble Lords back to the Victorian era. In those days, Britain had no government welfare state. It was the church and in particular Quaker families who recognised the power of business to improve the lives of the poorest in society. Companies such as Cadburys, Rowntree and Fry came out of that movement and became very successful, but their inspiration was driven more by prophecy than profit. Indeed, in my home city of Birmingham, the Cadbury company built Bournville, a whole community of homes for its employees.

Coming now to modern Britain, it seems that one of the major challenges facing us is unemployment, especially youth unemployment. In the UK, youth unemployment is still approaching 1 million, and the fact is that it is even higher in other European countries, such as Greece, Spain and Italy, does not mean that we can be complacent. Business is becoming increasingly globalised as we continue to outsource manufacturing and service industries to low-wage economies.

Recently, I was a guest speaker at a London Fashion Week event held in the Jubilee Room. It may be the first time in parliamentary history that the House of Commons has staged a fashion parade. I hasten to add that I was not part of the fashion parade. Then more recently I attended the launch of Dance UK, an organisation formed only a few days ago which tries to promote dance across the whole range. It reaches from the enormously successful brand of “Strictly Come Dancing” to ballet, hip hop and African dance. Having attended those two events, the thing that I became

most aware of was frustration among the young people who want to enter the world of fashion and music but are finding it so difficult to get finance or scholarships. Even when they entered those professions, it is hard for them to stay within them. The UK is a centre of excellence for fashion and music. Those industries are great exporters of our talent and, of course, they are especially attractive to young people. I believe that we need more paid apprenticeships and scholarships for those particular industries to combat the problem of youth unemployment. However, I am not going to ask that more money should come from the public purse for that. There are industries, such as the banks and hedge fund companies, which make vast profits. The UK is especially strong when it comes to the finance sector, and I would like to see the Government looking more to that sector to help combat youth unemployment.

The professional football industry in this country has a strong influence, especially when we consider that most cities have at least two major clubs. For example, Manchester has United and City, while Merseyside has Liverpool and Everton. I am a patron of Aston Villa, but since it is at the bottom of the league, I shall gloss over that quickly. However, the Premier League is amazingly wealthy, especially from television revenue. Although I know that most clubs have community programmes, the image which has emerged is that of millionaire superstars who are remote from the problems that many of their adoring fans face on a daily basis. How encouraging it was to hear this week of players from Carlisle United, in the lowly fourth tier of professional football, helping the residents of Cumbria who have been affected by the dreadful floods. I hope that that sets a trend whereby some of the football clubs become even more involved in their communities. There are reserve players at Aston Villa who are millionaires, so they can afford to offer some of their time. They cannot score goals, but they can offer their time. Indeed, when we think about it, most of the larger, wealthier clubs are situated in the poorest inner city areas, and many of their fans are unemployed. It is a tragedy, in my view, that these players do not recognise their responsibility to help their communities.

Closer to Parliament, the Westminster Volunteer Centre works with a large number of companies such as Asda, DHL and William Hill to provide mentors for 14 to 18 year-olds. In my own small way, I try to mentor a number of young people. Growing up as a young black man from Birmingham, born of a single mother, I found it very difficult to locate the right mentors, and I would suggest that mentoring is a key factor. I know a little about Greggs, the high street bakers. It runs its Breakfast Club Programme in primary schools in poor areas. Marks and Spencer runs its own Marks and Start work experience programme for unemployed people. The noble Baroness, Lady Lane-Fox, may like to know that a couple of weeks ago I went into Marks & Spencer, where there was a young black boy who had just started work experience. He was so polite and so grateful for the opportunity, so well done to Marks & Spencer.

It is not just big business that can make a difference. The Voice of Local Shops Survey polled more than 1,000 independent retailers across the country, and

[LORD TAYLOR OF WARWICK]

found that 80% of store owners are involved in their community in some way. Indeed, 71% collected for a local or national charity, and 25% provided sponsorship for local schools and sports teams. I was recently appointed as one of the board directors of the International Small Business Congress, which represents small companies, not only in the UK but globally. The organisation is especially keen to recognise racial and cultural diversity. I know that the noble Baroness, Lady Greengross, understands those problems and I thank her for her comments. It is very difficult when you are black people and you look at society and do not see people like yourself at the top. When I was at school and doing my O-levels and A-levels, I went to see the careers master. He asked me what I wanted to do, and I said, “I want to be a barrister, sir”. He went red in the face and said, “I don’t think that would be a good idea, John”. I said, “Why not? Am I not doing reasonably well?” He said, “Well, you’re coming top in every subject but, John, you need to understand that black people don’t do that sort of thing. I can get you a job in the Post Office”. I have nothing against the Post Office, but I did not want to work there. I happened to have a strong mother who said, “Look, John, if you want to be a barrister, you get yourself there”. Mentoring is vital, especially for people who do not have parents like my mother.

Schools and universities can also be a catalyst between business and society. For some years I was chancellor of Bournemouth University, which has a proud tradition of providing graduates for local businesses, and I was privileged to open its business centre and strengthen the link between academia and business. Lastly, Business in the Community produced a report entitled *It’s Time for a New Contract between Business and Society*. It made the point that the prosperity of business and society are tied together, and one cannot succeed without the other. It seems to me that a bad attitude is like a flat tyre. Unless you change the flat tyre, you cannot make progress. Any business must have a positive attitude if it is to move forward. It is that positive attitude which business brings that can help resolve the major challenges facing the United Kingdom.

5.27 pm

Lord Suri (Con): My Lords, I thank the noble Baroness for securing this debate. This is a very pertinent question for us to consider today. As a businessman, I have often thought of business as the original big society: a way of solving issues and problems that Governments alone cannot fix. What could be a bigger issue than climate change? In many ways, it affects us all. The Secretary of State for the Environment, Food and Rural Affairs suggested this week that it was to blame for the recent terrible floods in Cumbria and Lancashire that have caused £0.5 billion of damage and the loss of many homes. Heavier rain and hotter weather will also come over the next few decades, and will affect our children and our children’s children. The Health Protection Agency projects that higher temperatures will mean a rise in heat-related mortality of 70% by 2020 compared with 2000, which will put further strain on our National Health Service.

I hope that the UN Climate Change Summit talks in Paris will be fruitful, but more and more onerous regulation on climate action can often be a poor means of achieving lasting change. I believe that any solution has to come from the Government, yes, but also from business. I was gladdened to read last week that an increasing number of large corporations have realised their corporate social responsibility to their consumers and will commit to sourcing all their energy from renewables, through the RE100 initiative. Some businesses, such as Unilever, are going even further and trying to become carbon positive, on which I congratulate them. Whether they succeed depends largely on the quality of the research and product output that is conducted by businesses in the private sector, which are already making great strides with renewables and carbon capture technology. At every step when tackling this generational issue, business will have to be deeply involved if there are to be successful results.

Another challenge that the UK faces relates to employment. The current figures are relatively good, but more can be done to make this country into the high wage, high productivity and low welfare state that our Prime Minister wants us to transition to. The best way to decrease unit labour costs and boost productivity is through investment by the Government and business. The Government must do their bit on education and infrastructure, but the huge role that business plays in training, developing and nurturing talent is often overlooked. Business investment here reached 11% of GDP in the second quarter of 2015, the highest level since 2000. Businesses are increasingly ploughing their retained profits back into the workforce, because they can see the gains that will secure their future. In my business, I have been able to do that because of the business-friendly environment that the Government have created.

From the data, we see that productivity has broken free of its time lag and is again on the rise. This is a real example of business fixing social problems. If we are to fix social problems we must move away from a top-down, heavy-fisted government approach, regulating the problem away. We must work with business, because the interests of socially-responsible businesses are the interests of their consumers.

5.31 pm

Lord Stoneham of Droxford (LD): My Lords, I, too, thank the noble Baroness, Lady Greengross, for initiating this debate. I dealt with her particularly on issues concerning the elderly, but it is good to grapple with these issues of business and social purpose. I was also delighted to hear the noble Baroness, Lady Lane-Fox, talking about Marks & Spencer. It reminded me of an incident earlier in my life when Lord Sieff, who was on the board of the *Independent*, started to bring in performance and efficiency indicators for the newspaper. I was, down the supply chain, the principal print contractor for the *Independent* when it started. It was partly his initiatives—that guidance—that led us to build a business that became one of the foremost contract printing businesses. That shows the importance of big businesses supporting and working with their supply chains.

On the main subject of the debate, the foremost priority for the country and for business has to be getting the right kind of economic recovery over the next five years. All the issues that we confront—more exports, business investment, innovation—have historically been long-term disappointments in the British economy. Therefore, if I wanted to pinpoint key issues for business management and business in this country, ones that will affect society as a whole, they would be concentrating on better management effectiveness and improving the skills of the labour force. This will become more apparent and important as the labour market tightens—as it is doing—and we can no longer rely on immigrant labour to fill shortages. If business rebuilds the apprenticeship framework, and puts emphasis on much higher skill levels, it will help rebalance one of the key social issues of our time: still having high-status academic study and, sadly, low-status non-academic study. That is one of the greatest challenges that we face, and business has a very important role in redressing that balance.

It is also important that business pays attention to its image, and is alert to issues that undermine that image. The noble Lord, Lord Taylor, mentioned Cadbury's. The company not paying taxes—however legal, though clearly contrived—is an issue, and is damaging. It happened, sadly, not just when Cadbury's became a US company: it was something endemic in Cadbury's before it was taken over by Kraft. I think there should be a little more emphasis on Quaker values in this debate—government and business working together out of mutual interest to deliver social purpose and economic success. These are linked issues.

I also took three examples. They are very different from those of the noble Baroness, Lady Lane-Fox. I have taken the issues of prisons, housing and regeneration. Prison reform is one of the key areas of public sector reform. I am very excited by the new Secretary of State. I did not think I would be, but I was very disappointed when Ken Clarke stepped down that we began to lose some of the reforming mode that we had in the early part of the coalition Government. There has to be a recognition in the public sector that if we are to reduce public spending in prisons, we also have to reduce reoffending. We cannot do it without radical changes. One of the keys to reducing reoffending is to provide better skills training in prisons and jobs immediately on release.

I would like to highlight Timpson. It is not a natural company for a Liberal Democrat to mention, but it surprised me a few years ago to hear its chairman say on the radio that something like 10% of his workforce were ex-offenders. The company specialises in shoe repairs and key cutting, so it might have been thought that risk reputation would not have encouraged it to think out of the box, but it has done. Since then, I have had all my shoe repairs done by that company. It said that it was dealing with pretty damaged people, that it supported them, and that it recognised that in prison one-third needed a job, one-third needed health treatment and one-third were probably people that one would not want to employ. He said that the one-third who needed a job were the ones to concentrate on.

I was pleased to see a quote in the *Times* today, which reminded me of the company. The chief executive of Timpson said that the remarkable thing was that the people he took from prison tend to be more loyal and after being in prison they are obsessed with turning up on time. Other companies are following Timpson's example. If we are to have reform in the prison sector, this area is fundamental.

I turn to housing. Not only do we have to house more people, we need to counter rising house prices which are currently distorting investment and saving in the economy. This is a huge problem in a sector where capacity has been destroyed in the recession; where there is going to be an increasing reliance by developers on outsourced contracting; and where there is going to be a rush to build more houses which could affect quality. There is huge potential for market failure in a very cyclical industry.

I am afraid that if the Government concentrate on only one part of the market, which is owner occupation, it will be severely distorted. The Government have to reach across all sectors: owner, rented and social housing. I declare an interest as chairman of Housing & Care 21. This is an industry which has to address skills, supply chains and costs and it needs steady growth. But we have seen the marginalisation of housing associations.

Housing associations have spent a lot of time building up skills. They have been important in the counter-cyclical building of homes when the private sector was no longer in a position to do so. They pay attention to vulnerable people who need not only a home but help with skills training to get back into the labour market. At the moment, the Government are marginalising this area, which needs to be part of a partnership covering all sectors of the industry. This will have social benefits as well as benefits for the economy.

Finally, I turn to regeneration. There is a report in the *Financial Times* today about the great divide between London and the south-east and other parts of the country, particularly our northern cities. We know we have the big project in the northern cities, but I re-emphasise that it is not just about reforming local authorities, it is about creating partnerships between businesses and communities. There are no quick fixes.

In my own city of Portsmouth in the 1990s we transformed the economy from recession by a partnership between the local authority, businesses, the Navy, housing associations, the university and developers. So its image was transformed, employment diversified and we laid a base, although it was not a complete base, for future prosperity. There is still much to do, but a partnership was absolutely essential.

So the right type of economic recovery is essential if it is to last; businesses are going to need to be very focused and competitive to survive, improved business investment and productivity will be essential to success, and the public and private sectors need to work together, because they will find that there will be more mutual benefit than they realise.

5.40 pm

Baroness Hayter of Kentish Town (Lab): My Lords, I thank the noble Baroness, Lady Greengross, for securing this imaginative debate about how business can help to achieve a fairer future for our country,

[BARONESS HAYTER OF KENTISH TOWN]

citing some notable examples, including Ban the Box, Age at Work, Diversity, Healthy High Streets, affordable food and better integration of health and social care—a wise agenda. I want to concentrate on business and poverty, concepts not normally grouped together. As the noble Baroness, Lady Greengross, described, business and society are intertwined and interdependent, requiring each other to be healthy and effective to meet their own objectives. If many people are poor, that affects the quality of our society and that is bad for business in all sorts of ways.

The first dimension is productivity. Our productivity gap with the other G7 countries has widened to its largest since 1992, with output per hour falling to 17 percentage points below the average of other leading industrialised nations. There are several hypotheses for why this is, but one is the impact that low pay has on the well-being of workers. For example, a report by Barclays Wealth, *Financial Well-being: The last taboo of the workplace?*, found that one in 10 employees is struggling financially. Among those who are struggling to make ends meet, 22% said that worry had made them less productive at work. Overall, the report estimates that this negatively impacts the bottom line by around 4%. The report says:

“Employees don’t leave their financial worries at the door when they arrive at work. The impact on the workplace is significant and has a real effect on the bottom line, more than employers realise”.

Secondly, poverty undermines education, and low education attainment in turn undermines skills in the workplace, meaning that employees cannot find the skills that they need, as we have heard from the noble Baroness, Lady Lane-Fox. But there is a potential virtuous circle, as acquiring the right kind of skills plays a massive role in increasing opportunities, improving people’s life chances and social mobility, and lifting people out of poverty. Meanwhile, the UK’s ability to increase productivity and compete rests on skills, so paid and fairly allocated internships, volunteer programmes and apprenticeships all allow more people to compete for valuable experience and support the social mobility needed to stem the flow of poverty from one generation to the next. That enhances life chances yet cannot be achieved without government, business, education and parents working together.

Thirdly, with regard to reputation, companies are increasingly under scrutiny from consumers and the public, as the noble Baroness, Lady Lane-Fox, said. Scandals and shortcomings have reduced public trust and confidence in business. As John Cridland of the CBI wrote in 2013:

“Businesses can only realise their full potential when they command the confidence of the public—the individuals that companies employ and the customers who buy their goods and services”.

People rightly expect companies to clearly show that they are holding themselves to ever higher standards when it comes to payment of tax, executive pay, transparency, customer services, how they treat their staff, sustainability and diversity in business. A clear commitment to help to solve societal problems—perhaps the Quaker way—would do much to enhance the reputation of business.

There is another element, about how businesses allow for the public interest in their day-to-day decisions and negotiations. Take land values: local government might want to sell off some land to raise funds for its community, presumably at the highest price. Another part of the same local authority might want to maximise the amount of social housing on that land, or minimise the harmful effects of a tall development on the local community; but such a policy could reduce the land value. That is a difficult issue that faces local government.

It is, however, also difficult for business. How does it allow for, or even promote, the public interest viewpoint into its thinking? Developer by developer, each decision might help the bottom line, but as a whole, society might suffer from the combination of this assault on the built environment, the social mix and the life chances of local people to find work or homes—all the things that make for a successful economy and society. Sadly, we hear a government Minister suggesting that people should decide whether they can afford to live in London, with apparently no thought as to where the jobs are, the cost of commuting if living on the minimum wage, or the access to family support or childcare for young families. These are big public interest and ethical issues which government alone cannot solve, but with which business needs to involve itself for the good of the whole.

It is in the interest of business to engage with social issues, especially poverty. The questions are about how they can do this and what stops them. Research commissioned by the Beatrice Webb memorial trust—I declare my interest as vice-chair of that trust—found that some businesses would like to do more, but are put off by criticism from anti-poverty campaigners which, they claim, makes them retreat into their shells. It may or may not be the case, but it certainly calls for more and better dialogue—or a contract, in the words of the noble Lord, Lord Taylor—between business and organisations working to address poverty.

The All-Party Parliamentary Group on Poverty has put this into its programme, and will carry this work forward. It is in everyone’s interest to have a world where business flourishes and the fruits of business are used to ensure that all have a standard of living that enables them both to feel part of, and to contribute to, our economic recovery and society.

5.47 pm

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills and Department for Culture, Media and Sport (Baroness Neville-Rolfe) (Con): My Lords, I thank the noble Baroness, Lady Greengross, for her Question. I enjoyed the wide-ranging debate and the range of examples that we have gathered together this evening. Over the past decades, I have been impressed by the noble Baroness’s work addressing so many issues faced by the aged in our society and by her work with Age UK, with BITC and, of course, with Jonathan Djanogly on responsible business practice. That includes companies such as Electricity North West, which was recognised at the Responsible Business Awards this year for having recruited households to its power saver challenge.

I wanted to mention Electricity North West today partly because, of course, it and several other companies, as mentioned by several noble Lords, are wrestling with a difficult challenge as a result of the catastrophic floods in Cumbria. Our hearts are completely with the families, the pensioners and the businesses going through such unbelievable difficulties as the rain continues. As a Government, we are making £60 million available, which will help ensure that affected businesses can get back on their feet.

I was delighted to hear from the noble Baroness, Lady Lane-Fox of Soho, about the practical steps being taken by Marks & Spencer on climate change, such as the revitalisation of British fish stocks. Of course, her own experience and efforts are part of the digital revolution. She is an inspiration in showing how big companies and charities can work together. This is for us all, not just a government matter. I believe that businesses make an enormous contribution to addressing the challenges facing society. The fact is that all the resources available to government for schools, hospitals, housing, welfare and defence ultimately depend on the wealth that the business sector creates and the taxes that it properly pays in the UK. I have found that business is also a great source of innovation. This matters in many of the areas we have discussed today. Companies in the digital world are pivotal to the UK economy and, indeed, to continued small business creation and growth. We made it clear in the Autumn Statement that we were investing £1.8 billion in digital technology. In health and social care, digital devices are making the monitoring of diseases so much easier.

Much the most important contribution the business sector can and does make to our national well-being—probably 95% of its contribution—is to run businesses efficiently, innovatively and successfully so that they take on more staff, pay them more and in most cases—it should be in all cases, of course—pay more taxes. My noble friend Lord Suri is a brilliant example of the contribution that business can make to society with the jewellery firm that he has built up. I was so inspired by his comments this evening. I agree with the noble Lord, Lord Stoneham, that this is not only about skills. As he has often said, better management is vital and is especially important to growing the economy. As he also said, people should pay their taxes. I think that we will come back to his notion of Quaker values in future discussions.

Economic efficiency has a direct read-across to national welfare but, of course, the business sector also has an impact in softer ways. I endorse what was said about the British food industry and the supply of food at great prices. I know that it has worked closely with the Food Standards Agency to reduce fat, salt and sugar, although there is still much more to do. Customer trust is important, as the noble Baroness, Lady Hayter, said. I enjoyed working with her on reforms to consumer rights.

Businesses also directly or indirectly pay for the training of much of the UK workforce, ensuring that the UK can grow and prosper. I agree with the assessment of the noble Baroness, Lady Greengross, of the vital role that older workers play. Workers aged 65-plus bring a unique wealth of experience and skills to many

workplaces, not just this one. For example, McDonald's has reported 20% higher performance in its outlets where workers aged over 60 are employed.

However, as has been said, youth unemployment remains high. My noble friend Lord Taylor said this. The good news is that youth unemployment is at its lowest level since 2006, and the employment rate for young people who have left full-time education is up to 74%—the highest in more than a decade. However, there is more to do, and it has to be everywhere, not just in finance or football, particularly at Aston Villa. Everybody needs to play their part. As my noble friend said, mentoring can make a huge difference. We all have a duty to mentor people, which is actually very enjoyable.

In the last Parliament, more jobs were created in the UK than in all the other EU member states combined, with most of those jobs being created in the private sector. However, there are certainly areas for improvement. It is true that we have performed less well on skills. We know that skills are one of the major drivers of productivity growth, accounting for around a fifth of UK growth over the last 30 years. That is why we have committed to significantly increasing the quantity and quality of apprenticeships in England to 3 million starts. The noble Baroness, Lady Lane-Fox, described the digital challenge in skills. I commend all that she has done and I was interested to hear about Go ON UK. A huge amount needs to be done on digital skills. As she says, they feed start-ups and scale-ups, which is what we need if we are going to stay ahead in global markets.

Frankly, there has been a steady decline in the amount and quality of training undertaken by employers over the last 20 years, so a UK-wide apprenticeship levy will be introduced for all larger employers in the public and private sectors to help fund the increase in quantity and quality of apprenticeships that we need. We are encouraging large businesses to train more apprentices than they can themselves use. We are doing more to help small businesses as well by offering them apprenticeship support. We have made a commitment to address the proportion of apprenticeships started by young people from BME communities and to increase it by 20%, and to encourage employers to think of apprentices from diverse backgrounds as the norm.

Many major companies have put training programmes in place: BAE Systems, for example, opened a new £5 million training academy in north Lincolnshire recently, which will take on more than 60 apprentices. There are lots of examples. I join the noble Baroness, Lady Greengross, in commending the work done by my noble friend Lord Baker and his role in developing university technical colleges. It is an amazing model and obviously links in with household names such as National Grid, Toyota and Siemens, and really helps to get the economy going.

Businesses tend to reflect the local communities in which they operate, and we can be proud of the fact that the UK achieved a female employment rate of 69% in the last year. This is the highest figure ever recorded in the UK. It is also the second-largest annual increase among the G7 and the highest in Europe. The noble Baroness, Lady Lane-Fox, gave us more excellent examples, including Arup and Intel.

[BARONESS NEVILLE-ROLFE]

One of my ministerial priorities is to press ahead with Women on Boards, a successful voluntary initiative supported by government and led by the noble Lord, Lord Davies, who has done a great job doubling female representation on boards since 2011. There are now no all-male boards—unimaginable, frankly, in 2010—and the companies mentioned here have played a part in that. We are now focusing on the talent pipeline to ensure that women are able to move through a company and that skills and talent are recognised.

A start has also been made in addressing BME representation, with Sir John Parker of Anglo American now leading a business endeavour with a view to ending monocultural boards in the FTSE 100 by 2020. I was delighted to hear about the work on Ban the Box and the comments of the noble Lord, Lord Stoneham, about the training and employment of ex-prisoners. John Timpson's record is amazing, as has been mentioned; there is also Halfords and Virgin. They are all doing more work in this area and we want others to join them. Ex-cons, given a job, are loyal and have learnt to turn up on time.

The noble Baroness, Lady Hayter, talked about the flatlining of productivity. I am delighted that the Government have decided to address this with the launch of our productivity plan in July. Part of this is the productivity leadership group of business leaders chaired by Sir Charlie Mayfield. I listened carefully to her observations and to those of the noble Lord, Lord Stoneham, whose comments about housing, regeneration, skills, apprenticeships and education are all relevant to this cross-cutting productivity work. We need to bring that together and create a sense of momentum. This includes 200,000 starter homes by 2020 and of course the right to buy. There is more to do, but we have five years to do very good things.

To conclude, there is much for the Government and other stakeholders to do, but business can contribute—and I believe is contributing well—to resolving some of the major challenges facing the United Kingdom. We have heard this evening about some more things that we should be doing.

Committee adjourned at 5.59 pm.

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