Vol. 767
No. 88

Monday
21 December 2015

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

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DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
LD	Liberal Democrat
LD Ind	Liberal Democrat Independent
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

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House of Lords

Monday, 21 December 2015.

2.30 pm

Prayers—read by the Lord Bishop of Southwark.

Death of a Member: Lord Janner of Braunstone

Announcement

2.36 pm

The Lord Speaker (Baroness D'Souza): My Lords, I wish to inform the House of the death of the noble Lord, Lord Janner of Braunstone, on 19 December. On behalf of the House, I extend our condolences to the noble Lord's family and friends.

Railways: Suicides

Question

2.36 pm

Asked by ***Lord Faulkner of Worcester***

To ask Her Majesty's Government how they plan to reduce the number of suicides on railways, and to reduce the disruption they cause.

Lord Faulkner of Worcester (Lab): My Lords, I beg leave to ask the Question standing in my name on the Order Paper and remind the House of my railway interests declared in the register.

The Parliamentary Under-Secretary of State, Department for Transport and Home Office (Lord Ahmad of Wimbledon) (Con): My Lords, the Government are fully supportive of initiatives which the rail industry is taking, led by Network Rail, in liaison with the Samaritans and other organisations, to reduce the number of suicides on the network. They are beginning to show results. The initiatives include measures to reduce the ease of access to platforms passed by fast trains and to train staff to intervene to help people near the railway who may be in a distressed state.

Lord Faulkner of Worcester: My Lords, I am sure the Minister will agree that it is impossible to exaggerate the distress and disruption caused by people taking their own lives on the railway to the bereaved families and friends, to station staff and passengers who may witness the event and to the train drivers affected, many of whom are so traumatised that they never drive again. British Transport Police tells me that fatality delays this year will amount to more than 455,000 minutes and that the number is rising. Does the Minister agree that the railway cannot tackle this problem on its own and that, while much is being done with bodies such as the Samaritans, which he mentioned, there needs to be a national campaign involving the Government, the civil police, mental health professionals, rail staff and the travelling public to identify people at risk and discourage them from harming themselves on our railways?

Lord Ahmad of Wimbledon: My Lords, the noble Lord is quite correct to point out the challenges that we face on the railways in particular. Of course, any suicide is one too many. As he will be aware, the Government have been working very closely with the Samaritans and over the past 18 months have invested £1.2 million to finance suicide prevention initiatives. The newly formed suicide prevention duty holders group brings together the very multiagency partnership he talked about. There is more to be done, including bringing together those who are impacted. The noble Lord talked about the cost. The cost to the rail network and beyond to the economy is £60 million, but the loss of life is far too great. We need joint working, and the Government are moving forward on that agenda.

Lord Balfe (Con): My Lords, I declare an interest as a trustee of a charity that deals with post-traumatic stress disorder among staff who witness these tragic events. The level of support offered to staff, who are often severely traumatised by the incidents they are called upon to witness, is pathetically low. Will the Minister approach the different unions and other actors to try to get a co-ordinated policy to help staff who are witnesses to overcome the problems they will often face as a result of these actions?

Lord Ahmad of Wimbledon: My Lords, I am sure that my noble friend is aware of the *Journey to Recovery* initiative, which was aimed specifically at rail drivers going through trauma. That has now been extended to other staff, with *Back on Track* being a particular initiative. On the issue that my noble friend has raised, there is already positive joint working. Network Rail, for example, is working closely with trade unions in this respect to ensure that those who suffer trauma are, to quote the report, put "Back on Track" as soon as possible. As I have acknowledged, though, there is more work to be done.

Baroness Hollins (CB): My Lords, suicide on the railways is a very public form of suicide. One of the risks of members of the public seeing a suicide is the possibility of copy-cats. As the rate is going up, I wondered whether there was any evidence of that happening. Given that suicidal thoughts are very common in the population at large, does the Minister consider that more could be done—for example, by the Samaritans—in advertising help on every single railway station to assist people who may be having suicidal thoughts at the time when they see such a death?

Lord Ahmad of Wimbledon: Part of the Government's initiative is to work together with bodies such as the Samaritans on national public awareness campaigns. There are physical things that we have done: for example, dividers on platforms, which have resulted in a decline in numbers of attempts at stations where they have been deployed. However, the noble Baroness is quite correct: information to travellers, not just to staff, is an important part of this. She rightly points out that media coverage sometimes leads to copy-cat suicides, and we are working to ensure that that is kept to a minimum to discourage such practices from taking place.

Baroness Randerson (LD): My Lords, the role of the British Transport Police is crucial in dealing with these very sad events, and there are other events that cause disruption to the railway that the British Transport Police is also very closely concerned with. I was therefore very sad to read last week stories about potential cuts to the British Transport Police budget next year. Are those stories true? Will funding to British Transport Police be cut next year? If so, by how much?

Lord Ahmad of Wimbledon: We work very closely across the board with the British Transport Police on this issue. The noble Baroness may well be aware that initiatives are being taken—right here in the capital, for example—to increase police patrolling to ensure that we minimise not just suicide prevention, as she points out, but also hate crime that takes place on our networks. We seek to minimise that and we work together with the police on ensuring this.

Lord Rosser (Lab): The Minister has already made reference to dividers on platforms. If he is talking about the same thing that I am, he will know that on the Jubilee line extension from Westminster eastwards at stations below ground level there are barriers at the edge of the platforms that also have the effect of preventing people from jumping in front of an incoming train. Are the Government pressing for such barriers to be extended to more stations on the London Underground in a bid to reduce the number of suicide attempts?

Lord Ahmad of Wimbledon: The noble Lord is right to point out that those have proven to be successful prevention barriers. The prevention barriers that I was referring to, those within Network Rail stations, physically divide the platforms and manage commuter traffic. We are looking at ensuring that prevention measures can be accommodated where possible in existing stations to prevent suicides. As I said, one suicide is one too many.

Lord Cormack (Con): My Lords, how many mainline stations have a chaplaincy service where priests and leaders of other faiths are available to talk to people who may be in such distress that they contemplate this awful final act?

Lord Ahmad of Wimbledon: In response to my noble friend, we are already working closely with the Samaritans, which I have already alluded to and who are the key providers of this support both to staff and to the travelling public. A poster campaign underlining that has also been launched.

VAT: Evasion

Question

2.44 pm

Asked by ***Lord Lucas***

To ask Her Majesty's Government what action HM Revenue and Customs is taking to reduce VAT evasion by overseas online retailers.

Lord Ashton of Hyde (Con): My Lords, Her Majesty's Revenue and Customs takes all forms of evasion seriously. HMRC has established a task force to undertake operational and intelligence-gathering activity to investigate this form of VAT evasion by overseas online retailers. Joint investigations with other government agencies are already under way and further targets are being identified. Contacts have been established with key commercial players in the sector and liaison continues with relevant international fiscal and law enforcement authorities.

Lord Lucas (Con): My Lords, I thank my noble friend for that encouraging reply. As HMRC knows, for some long while Amazon and eBay have been collaborating with hundreds of overseas retailers to defraud the taxman of millions of pounds every day. It seems that HMRC has been very slow in its response. Does HMRC realise the importance of effective and speedy enforcement for the fairness of the tax system and for the protection of honest internet retailers, and why has it been so reluctant to work openly and actively with UK businesses that know this part of the internet backwards and are in a position to help it make its enforcement effective and speedy?

Lord Ashton of Hyde: My Lords, HMRC certainly engages with other businesses, in particular with online businesses, and has dedicated customer relationship managers. A meeting with the top online retailers at a very senior level took place only last month. HMRC has dedicated 25% of its customs and international trade operational resource to this problem and has set up a national task force to deal with it.

Lord Davies of Oldham (Lab): My Lords, ever since 2010, when this Chancellor came into office, I have been astonished that ideology has triumphed over rationality and that the Government, while purporting to have a campaign against tax evasion, are slashing the staff numbers in the Inland Revenue. Can the Minister give an assurance today that the drastic cuts proposed for the Inland Revenue will not result in the dismissal of any staff whose returns to the Revenue are greater than the costs of their employment?

Lord Ashton of Hyde: My Lords, in the spending review the Chancellor confirmed that HMRC is making savings of 18% in its own budget through efficiencies. Of course, in this digital age we do not need taxpayers to pay for paper processing or 170 separate tax offices. However, the Government are reinvesting £1.3 billion of their savings in HMRC to transform it into one of the most digitally advanced tax administrations in the world.

Lord Leigh of Hurley (Con): My Lords, I declare an interest as a director of a chain of retailers with 200 shops and a member of the Chartered Institute of Taxation. The problem is with non-established taxable persons. The solution is either to implement Article 14 properly or to bring in regulation—which we are allowed to do by derogation because it is evasion—and push the problem back to the retailers so that they police the evasion of tax.

Lord Ashton of Hyde: My Lords, on whether online platforms should be made liable for VAT and duty, HMRC is looking at all possible solutions now and cannot rule anything in or anything out.

Lord Lea of Crondall (Lab): My Lords, is the noble Lord aware that some years ago—10 years ago, I think—one of the sub-committees of the European Union Committee looked at e-commerce, and we were astonished to find that there were almost no data within Europe? I know the issue goes wider than Europe, but that is one area where transfer pricing is a big issue. One cannot be surprised, therefore, that multinationals run rings around HMRC. Will the noble Lord look into this question of data collection so that the Inland Revenue data match the Board of Trade data on how much e-commerce there is, which is not the case now, rather than it being treated as insignificant in numerical terms?

Lord Ashton of Hyde: The noble Lord is absolutely right to identify data as one of the crucial enforcement tools. The task force has been set up, first, to enable cross-government co-operation with other government agencies and, secondly, to look at issues such as data.

Baroness Janke (LD): My Lords, have the Government considered a packaging tax on these companies to discourage the wasteful use of wrappings and to contribute to the cost of their disposal?

Lord Ashton of Hyde: My Lords, that is some way from the subject of VAT evasion. I am not aware that the Chancellor has considered a packaging tax; if he has, he has not informed me.

Baroness Farrington of Ribbleton (Lab): My Lords, in answer to my noble friend Lord Davies, the Minister referred to efficiency savings. When the current level of efficiency is improved, how long will people have to wait for telephone calls to be answered, or will they have to wait longer?

Lord Ashton of Hyde: Obviously the idea is that they will not have to wait longer. I think everyone at HMRC has acknowledged that the service provided to individual taxpayers was substandard. That is why it recruited more people and has more people in training. HMRC expects that the service will be improved, as do we all.

Lord Foulkes of Cumnock (Lab): My Lords, has the Minister had the opportunity to look at John Swinney's first Scottish budget using the extensive tax powers that have already been devolved to Scotland? He used none of those powers to carry out his so-called anti-austerity programme. In view of the fact that we are now being asked to give the Scottish Government even more powers, will the Government support the amendment to the Scotland Bill put forward by my noble friend Lord Maxton to the effect that if the Scottish Government do not use those powers, they should lose them?

Lord Ashton of Hyde: My Lords, again, that is some way from VAT evasion. I am afraid that I have to say to the noble Lord that I have not studied John Swinney's budget very carefully.

Pregnancy: Neural Tube Defects

Question

2.51 pm

Asked by ***Lord Rooker***

To ask Her Majesty's Government whether they have any proposals to minimise the risk of neural tube defective pregnancy in women of reproductive age.

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con): My Lords, the Government are looking at all aspects of preconception health. This includes the uptake of folic acid, which can reduce the risks of neural tube defects. Women are advised to take a supplement of 400 micrograms of folic acid from several weeks before conception until the 12th week of pregnancy. This information is available on the NHS Choices website.

Lord Rooker (Lab): My Lords, is the Minister aware that on four occasions his predecessor told the House that the Government were awaiting information on blood folate levels? It was published nine months ago yesterday and we have had no statement whatever about it. Has the Minister had the chance to look at the scientific paper published last week showing that, if the UK had adopted white bread flour fortification at the same time as the United States of America, there would have been 2,000 fewer neural tube defect-affected pregnancies in the UK? There is now a spina bifida epidemic in Europe, which there is not in the 80 countries that fortify flour with folic acid. Surely it is time for action.

Lord Prior of Brampton: My Lords, I pay tribute to the noble Lord for the extraordinary work that he has done in this field and for giving this very important and tragic issue a greater degree of public awareness. My honourable friend in the other House, Jane Ellison, the Minister for Public Health, is considering her response to the report that the noble Lord referred to and to the report by the SACN, the committee on nutrition, published on 20 October. I expect that she will come to a decision early in the new year.

Baroness Walmsley (LD): My Lords, given the importance for the health of the foetus of folic acid being taken by women before they are pregnant, will the Minister work with his colleagues in the Department for Education to ensure that all young women—and young men—know the importance of taking folic acid long before they even think of becoming pregnant?

Lord Prior of Brampton: The noble Baroness is absolutely right. When you know you are pregnant, it is too late to start taking folic acid, and that is the fundamental reason why the noble Lord, Lord Rooker, is pushing for fortifying flour with folic acid. However, she is absolutely right that education is fundamental to this as well.

Baroness Hayman (CB): My Lords, is the Minister aware that the best tribute that he could pay to the noble Lord, Lord Rooker, and his campaign would be to make an early and positive decision on the fortification of white flour in this country? How long are the

[Baroness Hayman]
Government going to go on not taking any notice of either the scientific evidence or the evidence in practice from 78 other countries? I remember the definitive trial proving the benefit of folic acid in pregnancy in 1991. We have seen that advice alone does not work. When will the Government take action?

Lord Prior of Brampton: My Lords, as I said in my response to the noble Lord, Lord Rooker, this matter is being actively considered by the Minister for Public Health, and she expects to come to a decision very early in the new year.

Baroness Gardner of Parkes (Con): My Lords, we have unanimous feeling here. I was going to quote the statement made on a previous occasion by the noble Lord opposite that, really, we in this House are pretty well unanimously in favour of this and cannot see anything wrong with it, and yet the action has not followed.

Lord Prior of Brampton: My Lords, when my noble friend says that this House is almost unanimously agreed she may well be right. However, the decision on this matter has to be taken in the other House. As I said, my honourable friend Jane Ellison, the Minister for Public Health, is going to come to a decision very quickly.

Lord Turnberg (Lab): My Lords, we seem to have been for ever on this particular question. There is an irrational fear that somehow it is dangerous to fortify flour, and this has held up people in some way or other. But scientifically that does not bear fruit. It is clear from all the experience around the world of many years of fortifying flour with folic acid that it does work. We should be doing it here now.

Lord Prior of Brampton: My Lords, I am certainly not going to argue on clinical grounds with the noble Lord, who knows far more about this than I do. However, the issues are not purely clinical; they are to do with the mass medication of the whole population to reach a very small minority of women of child-bearing age. There are also some administrative issues to do with making sure that people do not take too much folic acid, as some cereals have folic acid added to them. However, I understand exactly what the noble Lord is saying, and can only repeat that the Minister for Public Health is reviewing this now.

Lord Blunkett (Lab): Can I surprise the Minister and not necessarily upset my noble friend Lord Rooker, but put down a word of caution? I agree with what the Minister has just said about having great caution when we involve ourselves in any mass medication—I have a history of being awkward on these issues, including mass medication through the water supply. I have no doubt whatsoever that this is an effective way of tackling the problem, but I have every concern that it is a slippery slope that we go down with great care.

Lord Prior of Brampton: My Lords, I think they were helpful and wise words from the noble Lord, Lord Blunkett. This is a difficult issue, and it is not as black and white as is sometimes portrayed. As I said, my honourable friend in the other House is taking all these matters into consideration.

Lord Hunt of Kings Heath (Lab): My Lords, I must inform the House that I am president of the Fluoridation Society. Therefore, although I always welcome my noble friend Lord Blunkett's interventions, perhaps I welcome this one not quite as much as usual. I have great respect for the Minister's colleague, the Minister for Public Health, and know that she is committed to public health. But she has had the evidence from the research, which caused the Government to delay a decision, for nine months. Is it not a fact that she cannot get agreement inside government, and that the Government have decided not to go ahead? Is not it time for them to be straight on this?

Lord Prior of Brampton: My Lords, I do not think that what the noble Lord has said is entirely correct. My honourable friend Jane Ellison received a letter from the SACN, the committee on nutrition, on 20 October that indicated that many more women were below the foliate level than had previously been thought. That evidence is quite new and came in at the end of October. That is what she is now considering.

Lord Patel (CB): My Lords, the Minister has said that he is against mass medication. Do we really think that this is mass medication? We are talking about adding to flour micro amounts of nutrition that is lacking, to give a choice to people: if they intend to get pregnant, they eat bread made from that flour and not unfortified flour.

Lord Prior of Brampton: Just to correct the noble Lord. I did not say that I was against mass medication; I said that it was one of the things that should be considered. It is also worth saying that, even if there was mass medication, it probably would affect between 15% and 30% of women who have babies with neural tube defects and not all women.

Counterterrorism: Muslim Communities

Question

2.59 pm

Asked by ***Lord Pearson of Rannoch***

To ask Her Majesty's Government whether, as part of their antiterrorism strategy, they will encourage leaders of the United Kingdom's Muslim communities to identify, confront and expose their violent co-religionists.

The Parliamentary Under-Secretary of State, Department for Transport and Home Office (Lord Ahmad of Wimbledon) (Con): My Lords, we welcome, acknowledge and indeed thank the many people who are already confronting extremism in this country. The Government are absolutely committed to strengthening our partnership with all those who want to see extremism defeated in all its ugly guises.

Lord Pearson of Rannoch (UKIP): My Lords, I thank the noble Lord for that reply. I suppose that it would be dangerous for our Muslim friends to fulfil this Question with the energy which many people would like. Does the noble Lord agree that our Muslim leaders also face the problem that there are more than 100 verses in the Koran which order violence towards non-Muslims and so give theological justification to the jihadists? What does the noble Lord have to say about those verses, not to mention the bellicose example of Muhammad himself, which all Muslims are supposed to follow and which therefore undermine the Government's strategy?

Lord Ahmad of Wimbledon: I can say clearly that I totally disagree with the noble Lord in his assertion about the holy scripture and the example of the holy Prophet of Islam. What is true, is fact and is real in this country is that Muslim contributions today, yesterday and for many decades—indeed, centuries—have been widely acknowledged as a positive contribution to the progress of this country, and long may it continue.

Lord Morris of Handsworth (Lab): My Lords, does the Minister agree that the so-called co-religionists are to be found in nearly all communities, not just the Muslim community?

Lord Ahmad of Wimbledon: What is important is that we must stand together and unite against all forms of extremism. I acknowledge that Islam is being challenged by those who seek to hijack a noble faith and misrepresent it. I commend the fact that we as a country—all communities and all faiths—come together in saying, "Not in our name".

The Lord Bishop of Peterborough: My Lords, does the Minister agree that there is a danger that asking questions in this way and hearing questions in the way that some might could demonise the Muslim community, the vast majority of whom are peace-loving and are as appalled by terrorist acts as the rest of us? Will the Minister agree that it would be far better to ask faith communities and others of good will to work together for social cohesion?

Lord Ahmad of Wimbledon: The right reverend Prelate is of course correct. It is the Government's view and, indeed, the view of our country, that no one should be demonised. We celebrate the diversity of our country and the fact that we are a multifaith society, with everyone contributing. I acknowledge the fact that, yes, the Government are committed—as I believe all in this House are committed—to ensuring the strengthening of partnerships.

Lord Lamont of Lerwick (Con): My Lords, is the Minister aware that the last time the noble Lord, Lord Pearson, intervened on this subject, he circulated to some of us a piece of paper in which he claimed that the Prophet Muhammad renounced the verse in the Koran saying, "To each his own religion". I checked this with an imam in London and found that what the noble Lord said was quite incorrect. Through the Minister, I extend an invitation to the noble Lord, Lord Pearson, to come with me to the mosque I visited in north London recently where it was explained to me that, contrary to what he has said, the word "infidel" or "kafir" does not mean non-Muslims—Christians and Jews—but people who do not act according to God's will and can apply to Muslims as well. Is it not absurd for the noble Lord, Lord Pearson, to set himself up as an authority on the Koran?

Noble Lords: Hear, hear.

Lord Ahmad of Wimbledon: I could not agree with my noble friend more. I also acknowledge receipt of the documents sent by the noble Lord, Lord Pearson. But I rely on the interpretation of God and his noble Prophet rather than, with respect, the interpretation of my faith by the noble Lord, Lord Pearson.

Lord Singh of Wimbledon (CB): My Lords, does the Minister agree that much of the conflict in the Middle East and the radicalisation of young Muslims in this and other countries is due to the export of a cruel and medieval interpretation of Islam from Saudi Arabia that has been rightly criticised by Dr Shuja Shafi, the Secretary General of the Muslim Council of Britain? Should we not be doing much more to help people counter this extreme interpretation of their faith, which is doing incalculable harm to the image of Islam?

Lord Ahmad of Wimbledon: I thank the noble Lord, and as the Government Minister responsible for countering extremism, no one is more committed to ensuring that we unite to face up to the hijacking of a noble faith.

Lord Paddick (LD): My Lords, I was the police spokesman following the 7 July bombings in 2005. In a press conference, I said that as far as I was concerned, Islamic terrorism was a contradiction in terms. I went on to say that from my professional experience as a police officer, the UK was a much better and more law-abiding country for having strong Muslim communities. I stand by what I said then. Does the Minister agree with me?

Lord Ahmad of Wimbledon: I totally agree with the noble Lord, and perhaps I may put this into context. It is why our Prime Minister said recently when referring to Daesh that it is neither Islamic nor is it a state. That underlines how we deal with those who seek to hijack the noble faith in this country.

Lord Rosser (Lab): My Lords, in November the Muslim Council of Britain took out an advert in the national press to underscore the united condemnation by Muslims of terrorism, especially after the Paris attacks. On 9 December thousands of Muslims took to the streets of London to participate in a peace rally, which received limited media coverage, presumably because such a story does not sell papers. Does the Minister think that all who are in a position to do so, whether they are individuals or organisations, have a responsibility to reflect in what they say and write the real abhorrence and rejection of terrorist activities by all key sections of our diverse nation?

Lord Ahmad of Wimbledon: It is not often that I have the opportunity to say this, but I totally agree with the noble Lord and I wish everyone a merry Christmas.

European Council

Private Notice Question

3.07 pm

Asked by ***Lord Boswell of Aynho***

To ask Her Majesty's Government what progress the Prime Minister made at the European Council meeting on 17 and 18 December towards reaching an agreement on EU reform.

The Minister of State, Foreign and Commonwealth Office (Baroness Anelay of St Johns) (Con): My Lords, the Prime Minster has clearly set out the four areas of our renegotiations: economic governance, competitiveness, sovereignty and migration/welfare. The discussion of the UK's EU reform agenda at the European Council on 17 and 18 December was, as European Council President Tusk said, an opportunity to focus minds on the trickiest areas of our reform agenda, notably on in-work benefits for EU migrants. As the conclusions from the European Council set out, the Council agreed to work closely together to find mutually satisfactory solutions in all four areas of our reform agenda at the European Council meeting of 18-19 February 2016.

Lord Boswell of Aynho (Non-Afl): My Lords, I thank the noble Baroness for her response and her indication of some progress having been made at the European Council meeting. However, does she acknowledge that if I had not tabled this Private Notice Question, the House would simply not have been given a chance to consider reform until mid-January, which is half way to the next and what will probably be the decisive European Council meeting in mid-February? Why did the Government not offer an Oral Statement, and can the noble Baroness at least now give an undertaking that the Government will honour their commitment to keep Parliament informed, thereby living up to their declared belief in the vital role of national parliaments within the European Union?

Baroness Anelay of St Johns: My Lords, as the other place rose last Thursday, my right honourable friend the Leader of the House made it clear that the Prime Minister would make a Statement on the first day back when the other place sits, which is Tuesday 5 January. I accept that protocol means that it was not possible to give the title of the Statement, but the mere fact that it is a Prime Ministerial Statement was indicative. I can give an assurance to the noble Lord that this Government take their responsibility and accountability to Parliament very seriously. I can therefore confirm that the Prime Minister will make a Statement on all matters discussed at the European Council when another place sits on 5 January. As is usually the case when the Houses do not sit concurrently, it would be possible through the usual channels for arrangements to be made, if the Opposition so wished, for the Statement to be repeated here when the House returns.

Baroness Morgan of Ely (Lab): My Lords, can the Minister confirm that there was no discussion in relation to social provision and workers' rights at the Council meeting as set down in the treaty? Does she agree that it is essential to keep these rights if we want to retain support for EU membership from workers in this country? Can the Minister also say whether the Prime Minister will give dispensation to all Ministers to campaign on a different side from him in the EU referendum campaign? I have never heard the Prime Minister state clearly and proudly that he is a European citizen. Can the Minister undertake to ask him to state proudly and often that he is indeed a European citizen and that Britain's future is best served as a member of the European Union?

Baroness Anelay of St Johns: My Lords, my right honourable friend the Prime Minister has made it clear that in renegotiating the terms of membership of the European Union he is acting on behalf of the interests not only of this country but of all members of the European Union. The four areas where we have sought renegotiation would serve all well. Protecting Britain to ensure that countries outside the euro cannot be discriminated against under EU rules, so we keep our economy secure, benefits all members. Making Europe more competitive benefits all members. Ensuring that ever closer union is not going to exclude us may suit others. We have also addressed the issues of migration and welfare. With regard to Ministers, it is clear government policy that the whole Government are behind the process of renegotiation followed by a referendum by 2017 based on that outcome. It has been said many times and I say it again today. The noble Baroness referred in particular to social measures. I know that questions have been asked with regard to the working time directive before, and I can reaffirm that we have an opt-out and we need to protect that. It will need to be part of the final agreement that it is protected within the system.

Baroness McIntosh of Pickering (Con): My Lords—

Lord Wallace of Saltaire (LD): My Lords—

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): My Lords, a Private Notice Question is not the same as a Statement so we do not have to go round the Front Benches in the same way as we do on a Statement. I do not know whether the noble Lord might want to give way to my noble friend Lady McIntosh.

Baroness McIntosh of Pickering: My Lords, as my noble friend the Minister explained, we hear a great deal about Britain's demands for reform. Other member states have requested reform at the same time, so will my noble friend explain to the House what they were and, in particular, what discussion there was after the Danes rejected in their referendum proposals to opt out of their opt-out?

Baroness Anelay of St Johns: My Lords, there were indeed wider discussions than the renegotiation reform agenda of the United Kingdom. The PNQ refers to a specific part of that. I can reassure my noble friend

that wider issues such as that of Denmark and on security and terrorism will be dealt with in the Prime Minister's Statement.

Lord Wallace of Saltaire: My Lords, we on these Benches recognise that the Prime Minister has made very good progress and we wish him luck in finishing the negotiations in February in the national interest. We recognise that there are parallel negotiations to be conducted within the Conservative Party and we hope he will put the national interest before the party interest as well. On the most difficult issues of migration and welfare benefits, will the Government do their utmost to ensure that we are all provided with accurate evidence on the situation? It has always been very difficult to get out of the Home Office and the DWP accurate evidence of how serious the problem is, rather than the campaign promoted by the *Daily Mail* and others. If we are to have a mature debate on all this as we come up to the referendum, we need to know how much of a problem there is on in-work and out-of-work benefits as a pull factor.

Baroness Anelay of St Johns: The noble Lord is right to say that discussions on a matter as important—a once-in-a-lifetime decision—as the position of the United Kingdom in the European Union should be made in a cool, rational and evidence-based way. With regard to in-work benefits, I simply say that taking a look at the DWP's own figures for March 2013—the latest usable figures in this connection—shows that about 40% of all recent European Economic Area migrants are supported by the UK benefits system.

Lord Robathan (Con): My Lords, while I hope that we all wish the Prime Minister well in his negotiations—

Noble Lords: This side!

Lord Tomlinson (Lab): Does the noble Baroness agree that this is the second European Council statement where we have had all the broad words about the four areas but no substantive detail? Can she tell this House whether any progress at all was made between the previous European Council meeting and the one held last week? If any progress was made, what is it?

Baroness Anelay of St Johns: My Lords, I shall be brief because others wish to ask questions. First, there is agreement that people who come to Britain cannot claim unemployment benefit for the first six months; we are well on the way to achieving that. The second thing is that people who cannot find a job after six months should either leave and go home or remain here at their own expense. The third thing is the issue of sending child benefit home. We are making very good progress on that and are close to the final decision on it.

Lord Garel-Jones (Con): Does the Minister agree that perhaps the most effective way of reinforcing national and parliamentary sovereignty would be to ensure that the principle of subsidiarity, which has been undermined by the so-called yellow card system, should be reinforced?

Baroness Anelay of St Johns: My Lords, the European Union Select Committee of this House has made excellent proposals on that, which this Government have endorsed.

Lord Foulkes of Cumnock (Lab): My Lords, as the noble Lord, Lord Boswell, said, is it not a bit embarrassing for the Minister that this matter is being reported to the House only as a PNQ and not being volunteered by the Government, particularly since one of the four things the Prime Minister is supposed to be arguing is greater powers to national parliaments? Will she remind the Prime Minister, and the Leader of this House, that the Government are responsible to Parliament, and not the other way round?

Baroness Anelay of St Johns: My Lords, I have no embarrassment because this Government are responsible to Parliament, and my right honourable friend the Prime Minister is making it clear that he will make a Statement in another place. Both Houses will then obviously have an opportunity to comment on it. Perhaps the history books will show that I am wrong but I would be surprised if this House made a Prime Ministerial Statement in recent years when the Prime Minister was not a Member of this House. That would be an unusual step, and one that the Labour Party never took when it was in office. Perhaps the noble Lord will add that to the reforms that the Labour Party proposes for this House—that the Prime Minister can be here, too.

Welfare Reform and Work Bill

Committee (4th Day)

3.18 pm

Relevant document: 13th Report from the Delegated Powers Committee

Moved by ***Lord Freud***

That the House do now resolve itself into a Committee upon the Bill.

Baroness Hayman (CB): My Lords, on a business point, perhaps I can help the noble Baroness, Lady Anelay, as I noticed that other Members of the House wished to come in on the Question, but we had only 10 minutes in which to do so rather than the 20 minutes that we would have had on a Statement.

It was not a prime ministerial Statement, but I well remember making a proper ministerial Statement to this House when the other place was not sitting when the first case of foot and mouth disease was discovered in February 2001. As I say, the House of Commons was not sitting. Although the noble Baroness is not the Prime Minister, she has the respect of this House and I simply recommend to the Government Front Bench that it would be possible to have a ministerial Statement in those circumstances; there is precedent for that.

Lord Cormack (Con): My Lords, in considering that, I urge my noble friend to consider also how inconvenient it is when the two Houses sit at different

[LORD CORMACK]
times. It would have been so much more sensible if both Houses had risen on the same day and were to come back on the same day.

Motion agreed.

Clause 3: Support for troubled families: reporting obligation

Amendment 70

Moved by ***Baroness Sherlock***

70: Clause 3, page 3, line 10, at end insert—

"( ) A report prepared under this section must include information regarding the adequacy of resources given to local authorities to fund the support provided for troubled families."

Baroness Sherlock (Lab): My Lords, in moving Amendment 70 in my name and that of my noble friend Lord McKenzie of Luton, I will speak in support of Amendment 71 in the name of the noble Baroness, Lady Manzoor.

We are supportive of the recognition by successive Governments of the need to invest intensively in co-ordinated support for families facing multiple challenges, many of whom are involved with a number of agencies. Labour began work in this area, and in 2012 the coalition Government launched the first phase of what they called the troubled families programme. The Prime Minister, David Cameron, was reported as saying that he would put "rocket boosters" under efforts to turn around the 120,000 troubled families in the wake of the riots of 2011. I declare an interest as one of the four members of the Riots Communities and Victims Panel set up by the Prime Minister in the wake of those riots.

My experience as a member of the panel really stays with me. The panel was unpersuaded that there was much overlap between the rioters and the surprisingly precise number of 120,000 families who were then the target of the troubled families programme. In a poll we conducted of 80 local authorities, only 5% felt that there was much overlap between the rioters and the troubled families. One of our concerns was how we should support the roughly 500,000 forgotten families, who would not be reached by the government programme because things were not bad enough. They were bumping along the bottom, not coping but not doing badly enough to get help.

Those families need our help. I have never felt that the challenges families face are just about money, although its absence can be and often is a significant or at least aggravating factor. I will be interested to see the evaluation of the various programmes local authorities set up under the banner and funding regime of troubled families. I welcome the proposal in Clause 3 to require the Secretary of State for Communities and Local Government to report annually to Parliament on the progress of families supported by the troubled families programme. Amendment 70 would require that report to include information,

"regarding the adequacy of resources given to local authorities to fund the support provided for troubled families".

I find it hard to work out the detail from the published financial framework so I hope the Minister can help. Can she say for the record what the longer-term funding proposals are, now that the Autumn Statement is out? Councils are being asked to design their own programmes to work with an agreed number of families, using criteria set out by central government. I understand that the original troubled families programme offered £4,000 per family. The financial framework says there will be a £1,000 attachment fee when an authority first works with a family, then an extra £800 on a payment-by-results basis depending on certain outcomes. Satisfactory outcomes are either "continuous employment" or "significant and sustained progress" over the five-year period.

I have some questions for the Minister. First, what work have the Government done with local authorities to ensure that that is an appropriate amount to incentivise them to choose the right outcomes for each family, rather than the ones that are the easiest to evidence, to make sure that they get the money that they are going to depend on to be able to run the provision? Secondly, are the Government talking to local authorities to make sure that the reporting requirements are not so onerous that they drain valuable resources or create incentives to focus on more readily documentable activity or more easily evidenced outcomes?

On the reporting point, one local authority representative said in the evidence session on the Bill in another place that the troubled families programme is addressing behaviours built up over decades or even generations. It is not,

"a 12-month, quick-fix, dip-in dip-out programme".—[*Official Report*, Commons, Welfare Reform and Work Bill Committee, 10/9/15; col. 17.]

How will the Government ensure that annual reports reflect the need for longer-term interventions?

Have the Government considered the extent to which other proposals in the Bill may obstruct the success of the troubled families programme and, if so, how they might mitigate that? The reduced benefit cap and the two-child limit are likely to force some families to move in pursuit of cheaper housing. One Member of Parliament reported that 1,000 families had already moved from her inner London borough to cheaper areas. But as the cap is reduced, they could end up moving again. Losing track of families who move has been a recognised problem for social services for years and it features quite often in serious case reviews, including some very well-known and damaging child protection cases.

Having to move is worrying because after families have been given support for the first time, when they move they can simply drop out of sight. They also lose access to community support services such as preschool activities, parenting classes, health visitors or support workers in mental health. I am particularly worried about children having to move schools—I will return to this on a later group—when a lot of work could have been done to get that child and school working together and keep them in school.

The family will also lose their troubled families support worker and that is a relationship based on trust, which can take a long time to establish. On the

assumption that the worker will not move to the new boundary, how can the programme ensure that the work that has been invested in that relationship of trust is not lost? That relationship between the worker and the family is not the icing on the cake; it is the cake. Louise Casey, who runs this programme, has talked movingly about the missing ingredient in these settings often being love. This is based on relationships. My concern is that a significant investment in those families, both emotional and financial—as taxpayers' money—will be thrown away if that relationship is broken. Can the Minister tell the Committee what arrangements have been made for transferring support for families if they end up moving across boundaries, especially as a result of the Government's own policies? I beg to move.

Baroness Manzoor (LD): My Lords, I shall speak to Amendments 70 and 71. I do not want to repeat what has already been so well put by the noble Baroness, Lady Sherlock, concerning Clause 3 and reporting obligations. I want briefly to summarise something that the *Guardian* found under a freedom of information request in November 2015. That request showed that in the 120 councils that responded, only 79,000 families were turned around through a family intervention, which is meant to be an integral part of the troubled families programme. The research also found that more than 8,000 families in more than 40 local authorities had not received any kind of family intervention but had instead been turned around solely on the basis of data-matching exercises. The research found that councils might, for example, trawl through employment, youth crime and truancy data to identify a family that would have been eligible for the programme and which, without receiving any help from the troubled families programme, fulfilled the criteria for being turned around because school attendance had improved or one of the parents had found a job.

My Amendment 71 is an attempt to prevent this. It asks that a report prepared under this section must include an assessment of,

"the types of interventions provided by local authorities in the previous financial year, and … the success or failure of the types of interventions provided by local authorities in the previous financial year".

I hope that the Minister will feel that this amendment would enable an improved assessment of the interventions provided by local authorities and will accept it because without this kind of data, we are not going to get underneath exactly which services local authorities are providing. I believe that the Government believe they must have an evidence-based approach, and this amendment will enable them to do so.

Lord Kirkwood of Kirkhope (LD): My Lords, I want to make a short intervention in support of the two excellent speeches that have been made in introducing Amendments 70 and 71. I agree with everything that has been said, and I think we need another name for this programme as "troubled families" is a terrible name for it. I do not know whether we should have a competition for it—it might be too late. However, those families are certainly more troubled for being called troubled, so we need to think carefully about this. I hope that these suggested annual reports will not just be analytical and statistical but will come up with some policy advice and dynamics about change, to make these programmes better for the future.

I have had a bit of experience of working with a troubled families programme indirectly as a non-executive director of the Wise Group in Glasgow. It had a pay-as-you-go performance contract in the north-east of England, which was very interesting. I am in favour of the multiagency approach, but it is still in its early days and needs to be developed. I hope that these annual reports will look at a snapshot year by year and look across the different experiences and the different programmes mounted by the different local authorities to try and get best practice established and shared. That would be really useful.

3.30 pm

The most difficult thing about the troubled families programme as it stands is getting an evaluation that makes sense. Different methods and procedures are being tried, but it is the local authorities that evaluate these things and are, as it were, marking their own homework. This still needs some extra work, as the temptation is to say that it has been more successful than it actually has. I do not say that against local authorities, as people are working in difficult circumstances and trying to build on the platform of the experience that we have had in this important new public sector programme, but central government needs to hold the ring and make sure that the evaluation techniques that we are using are sensible, translatable and comparable.

This is a bit of a left-field suggestion, but I believe that the sanctions that are now so prevalent in the rest of the social security system need to be integrated in some way with the troubled families programme. If people are getting sanctioned regularly in a way that the system notices, they should be offered a slot on the troubled families programme. It is a voluntary programme, so the offer would have to be accepted, but some of the experience I have had, again in the Wise Group, suggests that the troubled families programme is a better way of dealing with some of these people who have been sanctioned multiple times and are obviously troubled in a way that is not just to do with their CV—it is deeper and wider than that within the family setting—than sanctions and the Work Programme. I hope that the Minister will think about that.

Finally, the point made earlier about close contact being maintained with local authorities is absolutely correct and must be right for England. But this is not just about local authorities in England. I accept the need for a report such as the one we are talking about here but, although it may not be directly analogous to the programmes in England, I hope that the Minister will also embrace the experience of the other jurisdictions in the United Kingdom, which are doing work of this kind, too. It would be a mistake not to have some way of bringing in the experience from Scotland, Northern Ireland and possibly even Wales for all I know. This is a developing and interesting area. It has to be resourced sensibly but it will help. I am in favour of the suggested reports but I agree that adding the suggestions in these amendments would be an entirely sensible thing for the Government to do.

Lord Farmer (Con): My Lords, I am sure I speak for many in your Lordships' House when I say how pleased I was that funding for the troubled families programme was extended into this Parliament and that the Bill will create a statutory duty to report on our progress in supporting these families with multiple, highly complex problems.

In more than one in 10 of the original troubled families on the programme, an adult moved off benefits and into continuous employment, which was a huge achievement since, on average, troubled families in the first programme had nine serious problems to overcome. Surely I am not being too optimistic in assuming that this reporting obligation signals an intent on the part of this Government to keep helping such families in the most effective ways possible and to renew the necessary funding.

Although ongoing accountability and financial commitment are obviously essential, I have to confess to a nervousness about the wording of Amendment 70, which talks about,

"the adequacy of resources given to local authorities".

My understanding of when and why troubled families programmes have worked best is that one crucial common factor has been the wider system reform that the funds have helped to effect. In early speeches about the intent of the programme, a recurring theme was that if social services were to help families turn themselves around, this would require the service landscape in a local authority area to be no less transformed itself.

The Government never intended to foot the bill for business as usual but to make a contribution on a payment-by-results basis to the bigger prize of system reform. Local authorities would not get the results they needed on the per-family spend alone—indeed, the first financial framework document published in 2012 was explicit that they would get only up to 40% of the unit cost of the intensive interventions that work with this group of families. Government were priming a pump, not signing a blank cheque. This should remain the guiding principle: a level of funding that incentivises services such as the police, health and social services to work more closely together to reduce costs, not a level of funding that is adequate in isolation to fund the support provided for troubled families.

This brings me to Amendment 71 in the name of the noble Baroness, Lady Manzoor. She argues that the report should specify which types of interventions were used and which were a success or failure. But this seems to ignore the evidence that a whole system has to become relentlessly focused on supporting families across the spectrum of need if a local authority can truly be deemed to be successful. Taking an intervention-level approach runs the risk of ignoring the importance of synergy and the whole-system emphasis also seen, for example, in the way in which Ofsted is now examining the entirety of a council's services to support children, using the single inspection framework.

Local authorities, such as the Isle of Wight, which have gone through profound reform, have integrated their troubled families work and funding with early years obligations, delivered through children's centres, by forming family hubs. These help families with children right up the age range and across the spectrum of need, so are able to offer early help as well as the more intensive help typically associated with troubled families. This is highly relevant, given the Prime Minister's recent announcement that local authorities which fail to safeguard children adequately will be taken into special measures, because that is what happened to the Isle of Wight. It was taken over by Hampshire, forced to rethink all its children's services and make prevention of harm the watchword. It is now modelling a better offer for all families.

Increasingly, family hubs are the visible manifestation of a system that integrates troubled families work with full-spectrum support in a sustainable financial envelope. Surely the future lies in evidence-based interventions being locally tailored into better functioning systems. I am not convinced that reporting at the level of interventions would capture the most important learning, which is surely the priority.

Lord Beecham (Lab): I spoke today to the officer in Newcastle who is responsible for the programme. We do not call it the troubled families programme in Newcastle; we call it the families programme. The noble Lord, Lord Kirkwood, is right to say that we need a title that does not imply some kind of stigma.

Newcastle has been extremely successful in the way in which the present scheme has been working. However, it was interesting to learn in a little more detail from the officer in question—I declare my interest as a member of the city council—what is occurring on the financial front and with progress on the ground.

In moving her amendment—I support both amendments in this group—my noble friend Lady Sherlock referred to the financial basis that was initially for a grant of £3,900 or £4,000. Two-thirds went on a fee for mounting the programme, while the other third went on a success fee. That has been turned around so that the larger proportion is spent on the success fee. Now, of course, the amounts have been reduced by roughly a third, so the total figure is in the order of £2,600 although, as I have said, the proportions have been reversed. That may in itself be a source of some difficulty.

However, other issues need to be considered. One of the criteria is getting people into employment. Of course, that is important and makes a significant difference, but those criteria will not necessarily apply evenly across all the relevant authorities. It will, frankly, be more difficult to get someone into a job in Newcastle and other parts of the north-east than in some other parts of the country, simply because of the state of the local economy. Too much weighting on that one factor could be regressive. That needs to be considered.

Then there is the question of what outcome we are looking for from the programme and, in particular, whether we are looking over a sufficiently long period to be able to judge what is happening and what is successful. I hope that, in any kind of survey of what is going on, we can take that long-term view—over several years rather than only two or three—to see what approaches have paid a dividend.

Another aspect that occurs to me is that the Labour Government made a mistake, frankly, in dividing children's services from adult social care. I was chairman of the

social services committee in Newcastle in the early 1970s, when the two services had been brought together. Dividing them, particularly in the context of families, is potentially difficult. It means that you are working across departmental boundaries, possibly less efficiently than would otherwise be the case. It is time—not only from the perspective of troubled families but generally, given the pressures on social care and children's services collectively—to reopen that issue. It is worth revisiting whether that decision is now applicable.

The noble Lord, Lord Farmer, referred to changes and savings that might be made. We must bear in mind that at the moment—I speak with some unfortunate knowledge of what is likely to happen in Newcastle—financial pressures are such that we will see significant cuts in both adult social care and children's services. We will lose experienced staff because we are facing a reduction of some £32 million in the resources available to the authority. I suspect that, to a greater or lesser extent, that will be the case across much of local government, particularly in the areas with greatest need.

Although it is obviously right to bring people together as far as possible, so that we do not have a succession of different bodies or individuals working with the families in question, it will stretch the capacity of local authorities to be able to cope with this without depriving some other potential or current recipients of the support they also need. We need to look at the totality of funding across the range of services provided by local authorities and their partners in the health service and elsewhere to deal with these issues.

Both amendments encapsulate the correct approach: we should regularly be taking a significant look at what will be a long-term programme. I return to the point made by the noble Lord, Lord Kirkwood, and encourage the Government to change the name, because it implies a certain stigma and it would be better if more neutral terminology were applied.

The Earl of Listowel (CB): My Lords, I urge that, whatever approach is taken, we are better at supporting families, particularly vulnerable families. In recent years, we have seen a steady increase in the number of young people being taken into care from their families and a flood of new-born children being taken into care. In some ways, that suggests that we are intervening better to take children out of damaging families, but we should really be trying our level best to support families so that they can keep their children.

Whichever approach one takes—I suspect that it will be a mixture of the two—one needs adequately to fund the general services of local authorities, and I am grateful to the Chancellor for ensuring that there is some limiting of the cuts expected by local authorities. At the same time, approaches such as the troubled families initiative—I express my admiration for Louise Casey, having watched her work in the past—which recognise the need to stick with the family over time, and the importance of loving that family until it can look after itself, are very welcome.

3.45 pm

Baroness Evans of Bowes Park (Con): My Lords, Amendment 70, tabled by the noble Baroness, Lady Sherlock, and the noble Lord, Lord McKenzie, seeks to require the Government to report on the adequacy of the funds provided to local authorities to support troubled families. We believe that the best way to judge the adequacy of the funding will be in the outcomes that the programme achieves. Our report will ensure that the Government remain transparent in publishing the progress made by families supported by the programme. This amendment, therefore, is not necessary.

The Government have committed to funding the new, expanded troubled families programme. In the spending review 2015, funding of £720 million was allocated for the remaining four years. Of course, the new programme also aims to incentivise local authorities to reprioritise existing resources to achieve better outcomes for families with multiple problems. These families are known to local services and money is already spent on them.

As the noble Lord, Lord Beecham, said, there is pressure on funding for children's services, but we have actually seen local authorities maintaining relatively stable funding in these areas. However, we completely understand that there is pressure, and that is why we are also providing additional resources to change the way services respond to these families to achieve better outcomes.

As a number of noble Lords have said, funding for the new troubled families programme is available to local authorities in three ways. They are provided with a service transformation grant to transform their services and collect evidence for the national evaluation; they receive attachment fees of £1,000, as mentioned, for each family that they agree to work with; and they are able to claim an £800 results payment once one of these families achieves significant and sustained progress.

Of course, noble Lords will be well aware that the real financial prize, as a number of noble Lords have said, is the long-term change that we make to these families' lives. It is not the money provided by central government, but the cost savings that can be delivered through redesigning their services to deliver better results for complex families with multiple problems and to see those families take control of their lives and move forward. We would certainly expect, as the noble Baroness suggested, local authorities to work together when a family moves from one area to another. It is both in the local authorities' interest and in the family's interest, so we would expect the sharing of information.

The programme has been designed to incentivise local services to reprioritise their money and front-line resources away from reactive services towards more integrated, targeted interventions to offer better outcomes for families with high-cost, multiple problems. By responding more effectively to the issues that these families face, the burden placed on local services can be reduced for the long term.

It is also important to remember that we are talking about a programme that has a track record of success. As the noble Baroness said, the original programme achieved success with about 116,000 families struggling with a multitude of problems. This could not have been achieved if the right services had not been in place. As with the original programme, the Government have asked local authorities to provide information that will enable us to assess its impact. This includes

[Baroness Evans of Bowes Park]
understanding what is being spent on families and the savings that are being achieved through local cost-benefit analysis. The noble Baroness, Lady Sherlock, asked whether this would increase the burden on local authorities. We do not believe that it will, because local authorities have already agreed to supply this information as part of the national evaluation of the expanded programme. Furthermore, they themselves receive valuable analyses of the programmes to help them drive improvement to their services.

Amendment 71, tabled by the noble Baroness, Lady Manzoor, seeks to require the report of the Secretary of State for Communities and Local Government to include information on the types of interventions families receive and whether they are successful. DCLG has always recommended that families should be supported through a whole-family approach to achieve positive outcomes, but it does not mandate a specific type of intervention. This is because we believe that, to work effectively, local authorities need the flexibility to adapt their approach to their local area and to each family they work with. There are no set or standard interventions that are universally applied by or across local authorities: each intervention is specific to each family. Given this necessary flexibility, the effectiveness of the programme will be measured through the outcomes it achieves with families rather than the individual intervention that it uses.

The duty to report, as it stands, already ensures that the Government are held to account on the effectiveness of the programme through publishing annual information on the progress made by families. To make progress, families will have received effective support from local authorities and their partners. The report will include information on this.

It may also be worth noble Lords noting that the report Parliament will receive annually on the troubled families programme will be based on the national evaluation of the expanded programme and the payment by results achieved by local authorities. The national evaluation will provide information about the progress of families against the six headline problems that the programme seeks to address.

The noble Baroness, Lady Manzoor, asked about data matching, which was used by local authorities in the original programme in relation to outcomes. They used data sets to track and monitor the progress of families. However, the fact that they used data in this way should not imply a lack of support for families. Every family that it was claimed had been turned around made real progress following support from local services. This is checked through the councils' internal audit process before they can claim a results payment.

On the *Guardian* report that the noble Baroness mentioned, that was based on something of a misunderstanding of the programme. The programme certainly encourages services to join up and offer better support for families with multiple problems through redesigning their approach to providing support, and we advocated a family-style intervention approach, but that is not the only approach. The *Guardian* looked only at a certain subsection of families who achieved support through the programme in this particular way, rather than the large number of families helped through a whole variety of different approaches.

On the basis of the information I have provided, I ask noble Lords to withdraw Amendment 70 and not move Amendment 71.

Lord Beecham: Could the noble Baroness indicate whether it is intended to have longitudinal studies of the programme and, if so, what kind of period we might look at? Secondly, are the Government encouraging—perhaps they are; I ask out of ignorance—peer review between different authorities carrying out projects of this kind? That would seem particularly helpful given the range of problems faced.

Baroness Evans of Bowes Park: I believe that the full scope of the reports has yet to be decided. I am certainly happy to take back those two suggestions to the department.

Baroness Sherlock: My Lords, I thank all noble Lords who contributed to this short debate. I thank the noble Baroness, Lady Manzoor, the noble Lord, Lord Kirkwood, and my noble friend Lord Beecham for their support.

We heard a lot of emphasis on evaluation. When the Minister takes this back to the department, I urge her to reflect a bit more carefully on that. I was a little concerned that, towards the end of her remarks, she seemed to imply that we do not need to assess either quality or funding because if the outcomes work it must have been okay. The question I would raise is that of causality. We are dealing here with very complex situations. Essentially, a family that is already engaged with lots of agencies and that may have multiple problems is an organic and dynamic unit—coming in and going out all the time. To assume, because it started at X and ended at Y, that what happened must have been the right thing is a very central government assumption and a slightly risky one in the circumstances.

I ask her to take that back, along with the suggestion of my noble friend Lord Beecham about longitudinal studies and peer review, to try to think very carefully about how we can capture the learning. With respect to the noble Lord, Lord Farmer, the point of these programmes is that what one authority does may not be the best thing for another authority. It depends on the circumstances, as my noble friend Lord Beecham described.

I also take the point made by the noble Lord, Lord Kirkwood, about terminology. Certainly, when I was on the riots panel I talked to a number of families who felt that being stigmatised got in the way of their trying to deal with things. It was not that they did not know they had problems; it was just that everybody constantly telling them that they had problems did not help. They wanted help to get themselves out of those problems, not to be branded. We need to find a way to ensure that that does not happen. I encourage the Government to think some more on that.

I am also grateful to my noble friend Lord Beecham for pointing out to the noble Lord, Lord Farmer—whose interest in this subject I recognise—how many local authorities are struggling with funding, especially in

the poorest areas where so many of these families will be. We need to be aware of that. I am grateful for the subject having been aired in this debate and I hope that the Government will come back to us on this on a regular basis. Given that, I beg leave to withdraw this amendment.

Amendment 70 withdrawn.

Amendment 71 not moved.

Debate on whether Clause 3 should stand part of the Bill.

Lord Elton (Con): My Lords, I would like to express appreciation for the troubled families programme as a whole, since we are now leaving it. Whatever the questions about causality, things have changed very considerably in the course of its existence and very many families have benefited from it. Moreover, it is the result of the Prime Minister leaving a Minister in the place where he knows the job for long enough to do it. I reckon this is a very important occasion and a very great benefit of which we should all be grateful.

Clause 3 agreed.

Clause 7: Benefit cap

Amendment 72

Moved by ***Baroness Sherlock***

72: Clause 7, page 8, line 22, leave out subsection (2)

Baroness Sherlock: My Lords, I shall speak also to Amendment 92. These amendments were tabled in my name and that of my noble friend Lord McKenzie of Luton. I shall also speak to the other amendments in this group. In doing so, I thank the many organisations which supplied briefing on this subject, including CPAG, Gingerbread and Shelter.

When the benefit cap was introduced, the Government made much of the fact that they were setting it at the level of average earnings. In May 2011, the then Minister, Chris Grayling, sought to defend the rationale for the cap by saying in another place:

> "Our policy approach, and the Government's clear intent, is to have a cap that bears reference to average earnings. That is necessary for the credibility of our benefit system. It is the right place to set the cap".—[*Official Report*, Commons, Welfare Reform Bill Committee, 17/5/11; col. 952.]

We in this House debated at length whether the test was fair, and we voted to exclude child benefit from the cap—a move that was overturned in another place. Now the Government have simply abandoned any such rationale and have plucked figures out of the air. The Bill reduces the cap to £23,000 a year in London and £20,000 elsewhere.

Even more worryingly, in future the Secretary of State can review the cap whenever he wishes without reference to any external benchmark and change the level simply by regulation. This could become a vehicle for Ministers to ratchet down the amount of help given to needy families without adequate parliamentary scrutiny. Our amendments seek to remove the subsection which would enable a reduction in the benefit cap. The effect would be to leave the cap at its current level.

Now that the Government have abandoned any external benchmark, it is hard to understand their rationale for choosing these levels. The impact assessment sheds little light. The nearest it comes to justifying the lower rate outside London is on the grounds that one in four households in London earns less than £23,000 a year while one in four households outside London earns less than £20,000. Is that the new benchmark? Is it to be set at a level equivalent to 40% of median earnings or is this, as I suspect, a post hoc rationalisation of an arbitrarily chosen figure? Once again, the rationale is misleading by referring only to household earnings rather than to income and in doing so failing to acknowledge that many households earning below the cap will also be receiving benefits covered by the cap, such as child benefit, child tax credit or housing benefit.

The new threshold will drastically change the impact of the cap. It will more than quadruple the number of capped households. The DWP estimates that as many as 90,000 additional households will be affected, and they could see their housing benefit reduced substantially. Rather than hitting large families in expensive areas, it will hit small families right across the country. For example, Shelter says that the new cap would affect a family with one child living in Guildford, a family with two children in Leeds or Plymouth or a single-parent family with two children sharing a room in almost one in five areas in England.

As the Government's evaluation shows, relatively few households have been able to move into cheaper accommodation to escape the benefit cap. The lower thresholds will make it even harder for families to move to cheaper accommodation as ever-lower rents must be found. Without the availability of cheaper housing in areas where there are also suitable jobs and childcare, families are going to be put in an impossible position. If they find it hard to escape the benefit cap, their only choice is to become poorer.

Once again the people most affected by this policy are poor families with children. The impact assessment says that 330,000 children will be hit further by the reduced cap, 24,000 for the first time, and the benefits of the rest, who are already in capped households, will be cut further still. They will include families who have been forced to move to cheaper houses or areas only to find that they are now above the new cap and could have to move again, with the children having to move to new schools.

Can the Minister reassure the Committee that it is not the Government's intention to keep cutting the cap repeatedly? Otherwise, these families, some of whom will have very good reasons for being unable to work, as we will hear in the next couple of debates, could face being shunted around the country, moving repeatedly, damaging their children's education and destroying family stability in the process. How will that help the Government's desire to focus on improving educational outcomes for poor children?

4 pm

The Government have made much of their research into the effect of the benefit cap as evidence that it acts as a work incentive. In fact, the research found that the proportion of households that moved into work was just 4.7 percentage points higher among capped households than in the control group. The IFS concluded that,

[Baroness Sherlock]
"a large majority of affected claimants responded neither by moving into work nor by moving house".
Indeed, I presume that that is because 85% of them are in circumstances where even this Government do not require them to work, recognising that they have good reasons not to; perhaps they are carers, have children or have been found not fit for work. The Opposition are sympathetic to the goal of reducing overall spending on social security, but we want to get that down by seeing reduced rents, people in skilled, sustainable jobs with better wages, and more people able to work. Slash and burn is not the solution.

There is increasing evidence that a cap could end up costing, not saving, the public purse. The Government's own assessments show that rent arrears, evictions and homelessness could increase—crucially, forcing local authorities to house families out of their own budgets. The Chancellor has acknowledged that by having to announce in parallel an increase of £800 million in discretionary housing funds. Labour opposes the reduction in the benefit cap because it will drive people further into poverty, and because it sets a clear precedent for a further reduction in the support offered to low-income families irrespective of rising living standards in the wider economy. It is not acceptable to get the benefit bill down by sending more children into poverty and socially cleansing our towns and cities, splitting up communities and damaging local economies.

Clause 8 provides that the Secretary of State must review the level of the cap at least once in each Parliament, and may do so at any time. Clause 8(3) says that in carrying out a review, the only thing that the Secretary of State must take into account is "the national economic situation". He may take into account other matters, but he is not required to. It is sensible—in fact it is obvious—that the Secretary of State should consider the national economic situation in setting the cap. Of course he should—but that is not enough. Amendment 92 would add two other factors that the Secretary of State should take into account as well. The first is the relationship between the level of the benefit cap and median household income—and in my defence I refer to the statement from Chris Grayling at the start of my speech. The second is the impact on households affected by the cap. I hope that the reasons for that are obvious and incontrovertible.

As we have heard, when introducing the cap, the Government stressed the importance of linking it to what other people in our country were living on. Lots of doubts were expressed about the way in which that would be done, but at least it was a benchmark; it could be measured and tested and, presumably, it meant that as earnings rose, the cap would rise as well. Instead, even though earnings are finally rising, the cap is being reduced—substantially, in the case of households outside London. Even more worryingly, the Government have now abandoned any objective rationale or yardstick, so they can adjust the cap by regulation at whim annually, or even more often if they choose.

All that this second amendment does is to say that the Secretary of State must take account of what is happening to household income in those households before he takes the decision to change the level of the cap. Any civilised Government should want to take account of the consequences of their decisions before repeating or adjusting them. The amendment would require Ministers to look at the impact on those households. As I said at Second Reading in relation to other measures, if Ministers will the ends, they must will the means. They should be forced to consider the effect on poor households, most of which have young children, before reaching a decision that could make it very difficult for many parents to clothe, house and feed them. I beg to move.

Baroness Lister of Burtersett (Lab): My Lords, I shall speak to Amendments 74 and 93. I am grateful to the noble Lord, Lord Kirkwood, for his support for both, and the noble Earl, Lord Listowel, for his support for Amendment 93. The aim here is to ensure that we debate the human rights implications of the cap, particularly regarding children and women. I am grateful to CPAG for its help with these amendments, and I declare an interest as its honorary president. I also support the other amendments in this group.

Amendment 74 would require the exemption of households from the benefit cap where necessary to avoid a breach of convention rights within the meaning of the Human Rights Act 1998. It would send a clear message that Parliament intends a cap to be implemented in a human rights-compliant way. It would enable tribunals and courts to exempt families from the operation from the cap so as to avoid a breach of human rights without having to make a declaration of incompatibility. This is necessary because by incorporating the list of benefits included in the cap in primary legislation in Clause 7, which was not the case before, rather than leaving them in regulations as now, it appears that the Government are trying to avoid legal challenge under the Human Rights Act other than by way of such a declaration.

Amendment 93 would require the Secretary of State's review of the cap to take into account the need to safeguard and promote the welfare of children. The phraseology echoes that in Section 11 of the Children Act 2004 and Section 55 of the Borders, Citizenship and Immigration Act 2009. In ZH (Tanzania) the noble and learned Baroness, Lady Hale, found that this effectively incorporated Article 3 of the UN Convention on the Rights of the Child, which requires the welfare of the child to be treated as "a primary consideration".

Lord Blencathra (Con): The noble Baroness quoted the noble and learned Baroness, Lady Hale, which I presume was from the Supreme Court case which ruled just a few months ago. However, the noble Baroness will be aware that the Government were taken to court on this very point of not implementing the UNCRC, the court ruled by three to two against Lady Hale and the judgment was that the Government were perfectly correct. The court went on to say, quoting some other distinguished noble Lords in this House, that it would be quite inconceivable for an unincorporated charter like the UNCRC to be given force in English law.

Baroness Lister of Burtersett: I am grateful to the noble Lord. I will come on to that case; I was talking about an earlier case that the noble and learned Baroness,

Lady Hale, was involved in. I am quite aware of the outcome of the case heard earlier this year, but I thank the noble Lord for providing a trailer for what I will say later.

These amendments are prompted in part by the inadequacy of the Government's own assessment of the human rights implication of the cap and in part by the judgment in the Supreme Court case that the noble Lord mentioned on the cap earlier this year. Both the Joint Committee on Human Rights, of which I was then a member, and the Office of the Children's Commissioner have emphasised that child poverty is a human rights/children's rights issue. Lowering the benefit cap clearly has implications for the number of children living in poverty. An internal assessment leaked to the *Guardian* in May suggested that if parents are unable to avoid the cap through paid work, it could plunge a further 40,000 children into poverty.

The impact assessment says nothing on the subject of child poverty, yet when I tabled a Written Question to ask what the impact on the number of children in poverty would be, I was referred to that impact assessment. As I said in our first session, I consider that rather insulting, as the implication was that I had not read it. I remind the Minister that the *Companion* makes it clear that Ministers should be as,

"'open as possible' in answering questions",

as this is,

"inherent in ministerial accountability to Parliament".

I therefore ask the Minister now, what is the department's estimate of the impact on child poverty of reducing the cap, given that we know from the *Guardian* that such an estimate exists? I am quite happy to accept any provisos about possible behavioural responses but this is not a good enough reason for refusing to provide Parliament with such a crucial piece of information. Also, can the Minister tell us how the Government responded to the questions from the UN Committee on the Rights of the Child on whether a proper child rights impact assessment had been conducted and,

"the measures being taken to mitigate negative impact on the enjoyment of the rights of children, particularly those in vulnerable situations"?

The impact assessment has a section entitled "What are we doing in mitigation?". I could summarise the contents by saying, "Not very much". It says nothing at all about mitigation of the negative impact on the rights of children, despite the request from the UN committee. The Equality and Human Rights Commission, too, has criticised the impact assessments and the human rights memorandum which accompany the Bill for failing fully to assess the impact on equality and human rights. It warns that there is a risk to the UK's compliance with its obligations under national and international human rights law, particularly with reference to children, women and disabled people, and therefore it gives its firm support to these amendments.

The impact assessment does at least acknowledge that women are more likely to be affected than men, as 64% of claimants who have their benefit reduced are likely to be single females—mainly lone parents. Sixty-three per cent of households capped to date have contained a child under five, and in total more than twice as many children as adults have been hit by the cap.

In the human rights memorandum, the Government note the Supreme Court's decision, which I shall come to now. They assert that they have fully considered their obligations under the UNCRC—in particular, Article 3, which concerns the duty to treat the best interests of the child as a primary consideration. However, their analysis of the best interests of the child seems to rest on the proposition that it is in the best interests of children overall to have parents in work and that work remains the surest route out of poverty.

That would be laughably inadequate if it were not for what is at stake. As the EHRC observes, it betrays a particular lack of understanding regarding compliance with the UNCRC. It may well be in the best interests of many children for parents to find work but it will depend on the work available and on the circumstances—as has already been discussed on earlier amendments, work can represent a cul-de-sac rather than a route out of poverty. Moreover, this bald statement ignores the fact that, as my noble friend said, the great majority of those who were already subject to the cap did not find work as a result. Is it really in the best interests of children to have their standard of living reduced even further when a survey, reported in the first-year review of the operation of the cap, found that more than a third of those affected had already had to cut back on household essentials and many had incurred debt?

In fact, the Government's position pretty much ignores the judgment of the noble and learned Baroness, Lady Hale—echoed by the noble Lord, Lord Kerr—that it,

"misunderstand[s] what article 3(1) of the UNCRC requires".

The final decision does not alter that fact. She continues:

> "It requires that first consideration be given to the best interests, not only of children in general, but also of the particular child or children directly affected by the decision in question. It cannot possibly be in the best interests of the children affected by the cap to deprive them of the means to provide them with adequate food, clothing, warmth and housing, the basic necessities of life. It is not enough that children in general, now or in the future, may benefit by a shift in welfare culture if these are also the consequences. Insofar as the Secretary of State relies upon this as an answer to article 3(1), he has misdirected himself".

She also pointed out that the children affected suffer from a situation which is none of their making and which they themselves can do nothing about. Can the Minister now give a more convincing response to the weighty charge that the cap, and therefore these clauses, are not in the best interests of children? As it is, the failure to give proper consideration to the best interests of the child could leave this measure vulnerable to a further future legal challenge.

In his judgment, Lord Carnwath referred to a point—mentioned by my noble friend—made during the passage through this House of the Welfare Reform Bill, which became an Act in 2012. That point was that most of the savings from the cap resulted from the inclusion of child benefits and child tax credits, even though these will be received by the great majority of those on median earnings. I shall return to this when I speak to Amendments 76 and 77. Although ultimately, Lord Carnwath sided with the judges who did not allow the appeal, he still considered that the cap did not comply with the UNCRC, and he expressed the

[Baroness Lister of Burtersett]
hope that the Government would address the implications of this when it came to reviewing the cap. Even Lord Reed, who spoke for the majority in disallowing the appeal, linked the proportionality assessment to the fact that the cap was set at median earnings. Now that, as my noble friend has made clear, there is no clear rationale for the level of the cap, as it is pushed to be below median earnings, that proportionality judgment might start to look rather different.

I have focused mainly on the implications for children's human rights, but, as I said, the human rights of women and disabled people are also at issue. I am sure we will hear more about the more recent High Court case that found indirect discrimination against disabled people through the impact on carers, but I will not go into that now. These wider implications are another reason for my amendment to Clause 7, which requires general human rights compatibility.

I believe that these amendments should be uncontroversial. After all, if the Government are so confident that the cap is compliant with human rights instruments, they have nothing to fear from them. I hope, therefore, that the Minister will be willing to take them away and consider them.

4.15 pm

Baroness Manzoor: My Lords, I shall speak to Amendments 72 and 92 in the names of the noble Baroness, Lady Sherlock, and the noble Lord, Lord McKenzie, which I support. As I said at Second Reading, although we on these Benches agree on the need for a cap, we do not see the logic in reducing it to £23,000 a year for households in Greater London and to £20,000 for those in the rest of the country. Nor do we see the logic behind breaking the link between average earnings and the cap, as has already been said. I agree with the Child Poverty Action Group, which states that:

"The reduction in the level of the benefit cap severs the link with median earnings, and instead is based on an arbitrary figure, leaving it unclear what the fairness test is now".

The Government's rationale is that the benefit cap will deliver strong work incentives. However, the real concern here is that the requirement to find housing at an affordable level may force families away from areas where there are high levels of work opportunities, such as in London, to places of high unemployment. This would undermine the ultimate aim of getting people off benefits.

Although the Government demonstrate that the existing benefit cap successfully strengthens work incentives, as evidenced by the greater proportion of those capped moving into employment as compared to those under the cap, in-depth interviews conducted by DWP itself in 2014 show that many households responded to the cap by,

"being willing to accept low-skilled, low-paid jobs, rather than pursuing further qualifications which they hoped would help them get a better job in the future".

As the noble Baroness, Lady Sherlock, has already said, the Institute for Fiscal Studies, which undertook a peer review of the DWP research, concluded that its analysis told us:

"that the large majority of affected claimants responded neither by moving into work nor by moving house".

Forfeiting further education and training for low-skilled, low-paid jobs limits an individual's long-term human capital and earning prospects, which lowers potential tax revenues paid to the Government and, on an aggregated level, hinders economic productivity and potential output.

Long-term reductions in welfare spending will be realised only by increasing people's income through employment and by reducing their outgoings, primarily through improving access to affordable housing. I urge the Minister to maintain the benefit cap as currently set.

At Second Reading, I asked whether the Government intended to undertake a distribution analysis of the levels of housing benefit that the average person hit by the benefit cap would receive and where they might be able to secure suitable housing. I wonder whether the Minister is in a position to answer this question more fully on this occasion. Will he also say what impact the further lowering of the benefit cap will have on single parents and how the rights of children will be protected? This has been very clearly highlighted by the noble Baroness, Lady Lister. Gingerbread quite rightly is concerned. Lowering the benefit cap will continue disproportionately to affect single parents, of which as many as 70%—I think that the noble Baroness, Lady Lister, quoted 69%—will have a child under the age of five. That cannot be acceptable.

Baroness Meacher (CB): My Lords, I speak to Amendment 94—I emphasise that it is a probing amendment. I do so in the hope that we can highlight the need for a comprehensive and regular review of the impact of the totality of the benefit cuts on specific groups—who are the most vulnerable—applied during the past few years, including those in the Welfare Reform Act 2012, in more recent legislation and in this Bill. The amendment requires that in carrying out a review of the benefit cap, the Secretary of State must include an assessment of the impact of the benefit cap on disabled people, their families and carers. I for one have not fully grasped the full impact of the multitude of cuts. At the very least, I believe that the Government have a moral obligation to understand the implications of their policies for the most vulnerable citizens in this country and to make public that information. That is what this amendment is about.

The benefit cap applies even to benefits designed to compensate for the extra costs of disability or caring for disabled people, including ESA WRAG, incapacity benefit, severe disablement allowance and carer's allowance. We know that one-third of disabled people—fully 3.7 million—live below the poverty line already. The benefit cap combined with the freezes and cuts to employment and support allowance for those in the WRAG group will see disabled people's incomes reduced significantly again. This significant reduction is from a level which is already below the poverty line.

The Government argue that the new lower, tiered cap has been designed to strengthen the work incentives for those on benefits. When I met the Minister from the other place, he said, "The whole point of this is to encourage people to work for more hours". I find that so cynical, when most of these people simply cannot work more hours for a range of reasons. However,

as we have argued previously in Committee, the Government have provided no evidence to back up the claim that cutting benefits that disabled people receive will incentivise them to work. As I have already indicated, the Government's reference to an OECD study failed to point out that the study did not even refer to disability throughout, and rightly so—of course, people who are disabled are in an entirely different position from those who are healthy and able bodied. We have evidence that reducing disabled people's incomes will make it harder and not easier for them to move into work.

In addition, the impact assessment provides no detail on the impact of lowering the cap on disabled people who are in receipt of DLA/PIP—those who are severely disabled and cannot do much about their situation. This amendment has no financial consequences. I hope that the Minister will take this matter away with a view to bringing back a government amendment on Report.

I support Amendment 93 tabled in the names of the noble Baroness, Lady Lister, the noble Lord, Lord Kirkwood, and the noble Earl, Lord Listowel. The case for the amendment has been eloquently spelt out and, fortunately, I do not need to add to that. I hope that the Minister will assure the Committee that this crucial issue will be dealt with on Report.

Baroness Pitkeathley (Lab): I add support to the amendment just spoken to by the noble Baroness, Lady Meacher, to which my name is added. While an exemption for households including a DLA or personal independence payment claimant exists, this does not protect all families affected by disability or all carers from the cap. That is because of the way in which "household" is defined in the benefits system. For the purposes of the benefits system, a household is considered to be an adult, their partner if they have one and any children they have under the age of 18. If any other adult relatives—for example, older parents, brothers or sisters, or even adult children—live in the same house, they are considered to be part of a different benefits household even though they all live together. This means that while carers looking after disabled partners and disabled children aged under 18 are exempt from the cap, those caring for adult disabled children, siblings or elderly parents are subject to it.

The Government's impact assessment for the introduction of the benefit cap estimates that 5,000 households containing carers would be affected by it. That seems to be completely contrary to the Government's policy on supporting carers. In its 2015 manifesto, the Conservative Party committed to provide more support for full-time carers. The fact that the benefit cap continues to apply to carers and the further lowering of the cap are entirely contrary to that commitment. The inclusion of the carer's allowance in the list of capped benefits also goes against the commitment to protect vulnerable families that are coping with the extra costs of disability and ill-health. I will have more to say about the inclusion of carer's allowance and the recent judgment in a later set of amendments.

Carers struggle every day with the extra costs of caring and it is clear, as the noble Baroness said, that many carers are absolutely unable to work as a result of heavy caring responsibilities. Therefore they cannot afford any reduction in their income at all, and yet the Government continue to cap their benefits, with those carers who fall within the scope of the cap losing up to an estimated £169 a week under the new cap compared with the position before the introduction of the policy. The benefit cap places an increasing financial and emotion strain on families, pushing carers to breaking point and ultimately threatening the sustainability of those caring relationships. Surely the Government must be prepared, at the very minimum, to assess the impact of these changes.

The Earl of Listowel: I rise to support the noble Baroness in these amendments. Relevant to this is the question of responsibility. It is clear that children are not responsible because they are not in charge, as it were. When we think about the difficult decisions we are making today, surely an important part of it was the greed of a few bankers some years ago that went unchecked. They are responsible to a large degree for the debates that we are having today. We should also think about the failure of successive Governments to build sufficient housing. The most important part of the benefits bill is housing benefit, and the reason that it is so high is that there is such a shortage of housing that we are paying over the odds for it in this country. It is not the fault of these children that they are in this position; it is due to successive failures by various people who were responsible in the past. I support the amendments because it is paramount that we keep the interests of the child at the very forefront of our minds as we make these decisions. We will simply be shooting ourselves in the foot if we neglect these children.

Lord Lansley (Con): My Lords, I rise briefly to contribute to the debate in respect of Amendment 72, which seeks to remove subsection (2) from Clause 7, and to say that I think it would be a mistake on the part of your Lordships' House to accept it. The noble Baroness, Lady Sherlock, was looking for the reasons why the benefit cap had been introduced and why it is being adjusted in the way it is. Coming here recently from another place, I think that the reason for introducing the benefit cap in the first place is at least as valid now as it was then. It is to ensure that we create a disparity between what people are able to live on through work and what they can live on in an accumulated way through benefits so as to heighten the incentive to seek work. Doing this at a time when job vacancies in the economy are at their highest level seems to me to be exceptionally important because it gives people a route out of poverty through work, which I had imagined we were all agreed is the most effective way to reduce poverty. I was surprised and disappointed to hear the noble Baroness, Lady Lister, say that work is often a cul-de-sac. It is not.

4.30 pm

Baroness Lister of Burtersett: Perhaps I can explain. Unfortunately all the evidence shows that far too many people get stuck in low-paid work which does not take their children out of poverty. A very large proportion of children in poverty have a parent in work. One of the points made by the Joseph Rowntree Foundation against the cap is that, even in that minority

[Baroness Lister of Burtersett]
of cases where the result has been for someone to move into work—it is a very small minority, as we have heard—the danger is that in the long term it is counterproductive because it pushes them into unsuitable, insecure and low-paid work.

Lord Lansley: I understand the point that the noble Baroness is making, but I am afraid that I do not agree with it, for two reasons. The first is by virtue of the other measures that this Government are taking in relation to availability of childcare, the further extension of personal tax allowances and the increase in the national minimum wage, leading to a national living wage. All of these enable people who are in work to achieve more of a living income through being in work. The second and most important reason is that work in itself changes the character of a household; it changes the character of people's lives. Frankly, in the long run, it changes people's employability.

Baroness Meacher: The noble Lord, Lord Lansley, is making an incentives argument, which I accept completely. Does he accept that, when people are unable to work more or at all because they are carers or severely disabled, the incentive argument really falls down?

Lord Lansley: The point I was answering was in relation to people in work, so that is a slightly different point. In relation to that point, too, as the noble Baroness has brought it up, the structure of the benefit cap is designed to ensure that people who are in a support group under the employment and support allowance, those in receipt of personal independence payments, and so on—there are number of exceptions—are not covered by the benefit cap. Those households are not covered by the benefit cap. We are focused, to a large extent, on those who have a capability for work even if that capability may be restricted in some ways.

I did not complete the point I was making in response to the noble Baroness, Lady Lister. Many years ago I was deputy director-general of the British Chambers of Commerce— and I do not think it has changed in the slightest—and I know that what matters to employers is that people have been in work and have all the attributes of somebody who has been in work. The longer one is out of work the less likely one is, as we know, to have those attributes. Therefore, the entry into work, even if it might not necessarily be the right job or be regarded as suitable or appropriate, will by its very nature make someone more likely to have those attributes necessary for work.

That is just one of the reasons why the benefit cap is needed. It is also needed because of a sense of the fairness between those who are in work and those who are not. The noble Baroness, Lady Sherlock, said there was a relationship with average earnings. That was true when the benefit cap was introduced, but to assert that it is some kind of mechanistic or scientific relationship is misleading. It is a judgment. A judgment was made, when there was previously no benefit cap to try and establish a benefit cap at a level that was regarded as fair.

I have to tell noble Lords—again coming from recent experience of fighting elections and being in the other place—that the public support the benefit cap. They regard it as still generous—too generous in many respects. When one looks at the relationship with those who are in work—the four in 10 households, broadly speaking, as was mentioned—who are not earning any more from their work than would be available through the benefit cap by the accumulation of benefits, they do not regard it as fair or reasonable for people to accumulate more by way of benefits than they are able to access by work.

Lord Blencathra: My noble friend has just said that from his recent experience in the other place he found that large numbers of the public supported the benefits cap. Can he tell us what Members of the Labour Front Bench in the other place were saying about the benefit cap, until quite recently?

Lord Lansley: Until recently—I do not know what the most recent experience is, but certainly until September this year—the Opposition Front Bench in the other place said that they supported the principle of the cap. I suppose they would say that they support the principle of the cap but at the level that it is currently set.

That brings me to the third reason why we have a benefit cap—namely, that we have to decide our priorities for distributing any given level of public expenditure. Of course, we know that Parliament has supported an overall cap on the welfare budget. Frankly, it is better for it to be distributed in relation to specific need than for some households to accumulate it to a greater extent.

If one were to seek to sustain the benefit cap at the level at which it currently applies, rather than apply it at the level proposed in the Bill—I hope that this House would not go down that path—that begs the question of where that money is to come from. Where else in the welfare budget can that saving be made because this step is still part of a necessary process of reducing the deficit over this Parliament? Where there is public support for this measure, where jobs are available in the economy and where there is scope to deliver an additional step towards reducing the deficit and heightening incentives for work while at the same time focusing the available resources on giving support—as we debated earlier in Committee—to those who we want to assist into work, and giving specific targeted support to the maximum extent we can where people have identified specific needs, Ministers are right to say that we should be doing that rather than allowing this benefit to be accumulated by some households to a greater extent.

The Lord Bishop of Durham: My Lords, I wish to speak specifically to Amendment 93, in the names of the noble Baroness, Lady Lister, the noble Lord, Lord Kirkwood, and the noble Earl, Lord Listowel, and Amendment 94, in the names of the noble Baronesses, Lady Meacher, Lady Pitkeathley and Lady Lister.

We all agree that the welfare of children is key in our considerations. I remind the Committee that this is rooted not simply in the modern era of rights but in

our Judaeo-Christian history, where the care of the orphan was paramount in Old Testament law. The failure to protect orphans was one of the core messages of the prophets of the Old Testament. Jesus himself demonstrated that welcoming and caring for children lay at the heart of what the Kingdom of God is like. We have not always demonstrated this care of the child well—I include my own church in that—which is why the need to ensure children's welfare is in our legislation. It is there as a reminder to us all, specifically those who exercise power and authority, that children must be taken fully into consideration in decision-making.

In principle, I accept that a benefit cap is a reasonable approach, partly for the reasons which the noble Lord, Lord Lansley, has just outlined, although I am not wholly convinced by his arguments about why the reduction should be made in the way proposed. Inevitably, whichever level the benefit cap is set at will affect children, so it is surely essential that the Secretary of State is required to consider its impact on children's welfare rather than leave this as a possible other matter that is considered relevant.

Sadly, in the busyness of economics, politics and high-level decision-making, all of us can lose sight of the child. I see it happening in the House of Bishops, in the General Synod of the Church of England, in local authority decision-making and in national decision-making. Therefore, to ensure that this does not happen unintentionally, I hope that the Minister will seriously consider Amendment 93.

Alongside this, I note the well-documented reality of increased costs for those who live with disability, and for their families and carers. I suggest that we have a slight problem with language here. One reason that many carers are not available for paid work is because, frankly, they are working very hard, caring for their family member. To suggest that they are not working is to demean them. It therefore seems entirely reasonable that since the benefit cap will impact these families, serious consideration should be given by the Secretary of State. As the noble Baroness, Lady Meacher, pointed out, this has no financial costs. It should not be left to his or her discretion.

I have three questions. The first is in relation to the point about disability and Amendment 94. Will the Minister agree to bring a suitable amendment on Report to include this in the review? In relation to Amendment 93, does the Minister accept that in the complexities of political and economic decision-making the child can be forgotten or side-lined? In the light of that, will the Minister accept that the welfare of the child must be at the top of priorities and so should be stated in the Bill?

Baroness Hollis of Heigham (Lab): My Lords, I want to come back on some of the points raised by the noble Lord, Lord Lansley. His first point was about public opinion being concerned about the apparent disparity of income between those on benefits and those in work. My noble friend Lady Lister made a good point on this. She pointed out that families in work also receive additional benefits, which are not taken into account, either by any comparison that the Government make or indeed by those families receiving them. If they looked at their entire income, including not just child benefit but, possibly, child tax credits to top up their wages and housing benefit, and then compared that to the total out-of-work income that will now be received by families hit by a cap—in other words, if they were better informed, and if the noble Lord, Lord Lansley, were better informed, if I may say so—they would have a fairer comparison to make.

My second point is that, understandably, a lot of the public do not understand how social security works. The majority of people surveyed think that 40% of the benefit budget goes on JSA—on the unemployed, who should be working. That is the common perception. Actually, it is 4%. That is the size of the disparity. Therefore, our job is to make sure that people understand the facts of it, not to cloud the argument by saying that because they were misinformed we should follow where they go. That has never been the position of honourable parliamentarians. By all means, when the public are well aware of the situation, we should respect that, but we should ensure that any such views are well based on information.

That brings me to my third point. The noble Lord, Lord Lansley, referred—and I think this was echoed by the right reverend Prelate the Bishop of Durham—to the value and the ethic of work. I agree. He is absolutely right that it changes the dynamic of the household. Although I am disappointed that only 4% or so of people were incentivised into work as a result of the higher cap, the hopes the Government may have of encouraging more people into work by making the cap tougher seem remote.

In particular, I remain completely baffled by one point. I hope that the Minister will help me on this. It was raised by the noble Baroness, Lady Meacher, and by my noble friend Lady Pitkeathley. I think that we all accept that where people can work, they should. We should help them through jobcentre advisers and with appropriate benefit support for getting back into work. I do not think there is any dispute around the House that if work is there, where people can work, they should work. But the Government are quite explicit that any lone parent with a child under three is not required to work. They are expected to attend interviews when the child hits two but not to work until the child is three. Yet that lone parent with a child under three will be caught by a benefit cap which is supposed to propel her into work, even though the Government have expressly said that she is not expected or required to work—and many would think that that was very wise.

My noble friend Lady Pitkeathley made the same point about full-time carers: they are indeed working very hard. Their work is unwaged but it is full-time work. Yet they, too, are being caught, even though the Government recognise, by virtue of the payment of carer's allowance, that they are working more than the 35 hours a week that entitle a person to get their carer's allowance—and on top of that, they may well be supporting a second person as well. The Government have accepted that both these groups of people should not be expected to work, which is why they have the benefits. They then argue that the cap should apply to them none the less, in order to incentivise them into

[Baroness Hollis of Heigham]
work. I am completely baffled by this morally, as well as politically and economically, and I hope very much that when the noble Lord, Lord Freud, comes to respond in a moment he can help me answer that question.

4.45 pm

Lord Blencathra: My Lords, it is a pleasure to follow the noble Baroness, Lady Hollis. She said at one point that the public do not understand how social security works. That is very true; I spent many years as a Member of Parliament and understood only a fraction of it, and I believe that very few people understand the details of the 70,000 regulations. However, what the public do understand is that when they have to move to another part of the country and cannot afford a mortgage on £26,000, or if they have to live in a house which they would ideally like to be bigger, better or different, or in a better street, and they cannot afford that, but then they see someone else or a family getting £26,000 or more in benefits, they feel it is unfair. You do not have to know how the regulations work to have that instinctive feeling. That is why all parties strongly supported the benefits cap when it was introduced by the previous Government. I appreciate that the Labour Party now has some reservations about it and I will comment on that later.

I had intended to talk only about the level of the cap and how it was fair. However, in view of the comments of the noble Baroness, Lady Lister, on the UNCRC, which I thought I would be dealing with on another amendment, perhaps I could make those comments in this speech in answer to her and I will not speak again on UNCRC matters. On the level of the benefits cap, as politicians we have different views but this was part of a case before the Supreme Court last year. It was just decided a few months ago and five of the noble judges ruled in the Government's favour that the benefits cap was not contrary to the rights of the child and not in breach of the ECHR.

In looking at the level of the cap, Lord Reed for the court said that:

"In relation to the related criticism that children in households affected by the cap are deprived of the basic necessities of life, that argument was rejected by the courts below, and I see no basis for reaching a different conclusion. As I have explained, the cap for a household with children is equivalent to a gross salary of £35,000 per annum, higher than the earnings of half the working population in the UK, almost three times the national minimum wage, and not far below the point at which higher rate tax becomes payable".

That was of course in relation to the level of the cap then and we are now talking about a reduction of 12.5%—but, based on the strong views of the court, I can see no reason why it would come to a different conclusion if the cap were lowered by 12.5%.

In looking at how families had been forced to move, the learned judge went on to say:

"In relation to the argument that households with children cannot reasonably be expected to move house … Millions of parents in this country have moved house with their children, for a variety of reasons, including economic reasons. It is, in particular, not uncommon for working households to move out of London in order to find more affordable property elsewhere. It is also necessary to recognise that transitional financial assistance is available for households affected by the cap who cannot move until suitable arrangements have been made in relation to the children, as I have explained".

Those views were taken from a 95-page report of the Supreme Court, having heard days and days of argument.

Baroness Lister of Burtersett: I may have misheard, but I think that I heard the noble Lord say that all five judges said that the cap complied with the UNCRC on the rights of the child. Is that right or did I mishear?

Lord Blencathra: If I said that, I misspoke. It was three out of five: a majority verdict of the Supreme Court.

Baroness Lister of Burtersett: So some of the five said that it did not comply but the fact is that the UNCRC is not incorporated into UK law, and therefore that was not sufficient for the appeal to be allowed.

Lord Blencathra: I take the noble Baroness's point but that was not the view of Lord Reed, which I read. I can see nowhere in his judgment where he said that we did not comply with the UNCRC but that nevertheless, because it was not incorporated, he was going to find in the Government's favour. That is not my interpretation of reading those pages whatever.

Let me move on to the UNCRC, since we have got there. First, the judge made the point:

"As an unincorporated international treaty, the UNCRC is not part of the law of the United Kingdom (nor, it is scarcely necessary to add, are the comments upon it of the UN Committee on the Rights of the Child)".

Then comes the crucial point:

"'The spirit, if not the precise language', of article 3(1) has been translated into our law in particular contexts through section 11(2) of the Children Act 2004 and section 55 of the Citizenship, Borders and Immigration Act 2009".

The judge was making it very clear that although the exact wording of the UNCRC was not applicable in the UK, the Government, through legislation, had incorporated the principles of it and were therefore complicit.

The judge went on to say that,

"it is therefore inappropriate for the courts to purport to decide whether or not the Executive has correctly understood an unincorporated treaty obligation".

He then quoted Lord Bingham of Cornhill's comments from a famous judgment, which I will leave aside, before noting:

"Lord Brown of Eaton-under-Heywood expressed himself more emphatically … 'It simply cannot be the law that, provided only a public officer asserts that his decision accords with the state's international obligations, the courts will entertain a challenge to the decision based upon his arguable misunderstanding of that obligation and then itself decide the point of international law at issue'".

The noble Baroness, who I greatly respect and who is very knowledgeable in this matter, quoted extensively I think from the noble and learned Baroness, Lady Hale, who took a rather more fundamentalist view of incorporating the UNCRC into English law. She has held that position for some time, but it was not the view that the court collectively took.

I will conclude taking extracts from these turgid 95 pages shortly. The judge went on to say:

"Finally, it has been explained many times that the Human Rights Act entails some adjustment of the respective constitutional roles of the courts, the executive and the legislature, but does not eliminate the differences between them: differences, for example, in relation to their composition, their expertise, their accountability and their legitimacy. It therefore does not alter the fact that certain matters are by their nature more suitable for determination by Government or Parliament than by the courts. In so far as matters of that nature have to be considered by the courts when deciding whether executive action or legislation is compatible with Convention rights, that is something which the courts can and do properly take into account, by giving weight to the determination of those matters by the primary decision-maker".

That decision is,

"relevant to these appeals, since the question of proportionality involves controversial issues of social and economic policy, with major implications for public expenditure. The determination of those issues is pre-eminently the function of democratically elected institutions. It is therefore necessary for the court to give due weight to the considered assessment made by those institutions. Unless manifestly without reasonable foundation, their assessment should be respected".

In conclusion, the judge says:

"Many of the issues discussed in this appeal were considered by Parliament prior to its approving the Regulations … Furthermore, that consideration followed detailed consideration of clause 93 of the Bill, which became section 96 of the 2012 Act. It is true that the details of the cap scheme were not contained in the Bill which Parliament was debating, but the Government's proposals had been made clear, they were challenged by means of proposed amendments to the Bill, and they were the subject of full and intense democratic debate. That is an important consideration. As Lord Bingham of Cornhill observed in R (Countryside Alliance) v Attorney General … 'The democratic process is liable to be subverted if, on a question of moral and political judgment, opponents of the Act achieve through the courts what they could not achieve in Parliament'".

He went on to say:

"The same is true of questions of economic and political judgment".

I apologise for quoting extensively from those bits of the judgment. I shall not speak again on UNCRC issues, but the noble Baroness provoked me in the sense that she relied heavily on the UNCRC to somehow suggest that the Government were acting improperly or illegally and had something to fear from the Human Rights Act. That was not the view of the majority of the court.

Baroness Lister of Burtersett: I do not want to provoke the noble Lord any further, but would he not accept that Lord Carnwath, in accepting that the appeal was unfounded—whatever the legal term is—and that the issue was one for Parliament, specifically asked the Government when they reviewed the benefit cap to consider what the judges had said about Article 3.1 of the UNCRC? That was my point—the Government have reviewed the benefit cap, and it will be even less in the interests of children than it was at the higher level.

Lord Blencathra: I thank the noble Baroness. I think that the comments of Lord Justice Carnwath are what the lawyers would call obiter dicta—they did not go to the heart of the judgment. He was making an observation that it might be nice if the Government considered it, but there was no suggestion that the Government's action in imposing the benefits cap was somehow contrary to the European Human Rights Act because we had failed to look after the interests of the child, as set down in the UNCRC.

Lord Beecham: The noble Lord, Lord Lansley, prayed in aid the state of public opinion about the benefits system. My noble friend Lady Hollis rightly corrected that. In addition to opinion polls, which have proved less than infallible in recent times, we should have a fact poll. We could then gauge what people really know about the issues that the country and individuals face. As my noble friend pointed out, there is a wide misapprehension about this issue as well as many others affecting the benefits system.

We are moving from a position in which the cap was related to average earnings to a different system. By sheer coincidence, perhaps, that move is taking place at a time when, after a long period in which average earnings have not risen, they have at last begun to rise. I suspect that this overdue rise in incomes, which would otherwise have affected benefits, has triggered the change that the Government are proposing. As other noble Lords have pointed out, and as we shall no doubt hear again during the Bill's proceedings, one of the principal problems that families face is the very high level of rents in the private sector and the difficulty of obtaining alternative accommodation at a reasonable rent. So these incomes are very much under pressure, with or without benefits. We are not talking about excessive amounts of money; £20,000 for couples and lone parents outside London is not the kind of money that enables people to live a life of luxury—far from it.

These amendments do not destroy the system but try to impose some criteria by which the benefits cap should be assessed. What on earth can be wrong with the suggestion in Amendment 92 that the Secretary of State must take into account,

"the relationship between the level of benefit cap and median household income",

the impact of the cap on households, local and public authorities and registered social landlords? What is there to object to in that proposal being a matter for consideration?

Lord Elton (Con): May I tell the noble Lord my view, which is appropriate on occasions such as this? The longer a list, the more clear it is that things that are not included are not to be considered. That is counterproductive. The shorter the list, the more flexible it is.

Lord Beecham: If I may say so, that takes for granted the propensity of Governments in general, and this Government in particular, to look at a wide range of issues. Frankly, on the evidence of the last few years, I do not think that that is a plausible argument. Why should it not be on the record, as proposed in Amendment 93, that the Secretary of State should take into account,

"the need to safeguard and promote the welfare of children",

in his review of the benefit cap? Similarly, Amendment 94 proposes that the Secretary of State must take into account,

"the impact of the benefit cap on disabled people, their families and carers".

[Lord Beecham]
If these issues are taken into account, the Government lose nothing by it, but if they are not, or if there is a risk that they will not be, then they should surely be part of the process.

If the Minister is going to resist the amendments, I cannot understand why. They do not dispense with the possibility of having a cap. In this context, and in others, I repeat: one of the principal problems is the cost of private rented housing, in which very many people who rely on benefits are found. We will return to that later, but we should not forget it even as we look at these amendments, which I commend and support.

5 pm

The Minister of State, Department for Work and Pensions (Lord Freud) (Con): My Lords, Amendment 72, tabled by the noble Baroness, Lady Sherlock, and the noble Lord, Lord McKenzie, would retain the benefit cap at its current levels and have those levels apply across Great Britain. We introduced the benefit cap to increase incentives to work, to promote fairness between those in work and those on benefits and to help address the deficit, and it is clear from the evidence that the cap is working. Since it was introduced in 2013, more than 18,000 previously capped households have moved into work.

The evaluation evidence shows that capped households are 41% more likely to go into work than similar uncapped households. This is even more marked in London alone, where households were 70% more likely to go into work than similar uncapped households.

I am heartened to hear from the noble Baroness, Lady Sherlock, that she now supports the existing benefit cap. I happen to remember that that was not necessarily the position on the Opposition Benches in 2012. Indeed, I seem to remember that the counter proposition from them was that we should have a regional cap, so I hope that the Opposition are now delighted that we are beginning to move in the direction suggested. Perhaps in another three years, in 2018, the Opposition—

Lord McKenzie of Luton (Lab): When we debated the regional cap at that time, did the noble Lord support it?

Lord Freud: Of course I did not support it; I am on the record as not supporting it. This is not an absolute regional cap—this is a two-tier cap, London and the regions—but, the Opposition may feel that it is better late than never. I look forward, by 2018, in another three years, to the full-hearted support of the Opposition for the current proposals.

Baroness Hollis of Heigham: My Lords, does the Minister not also accept—I am sure that his memory stretches back this far—that the main concern of the Opposition, led by my noble friend Lady Sherlock, who will no doubt respond to this in any case, was to come in behind the Bishops' amendment? That was to ensure that we compared like with like—not, as the Government were doing, like with unlike. They were excluding from those in work income such as child benefit and additional forms of benefit, so they were comparing income for those exclusively on benefit with earnings only, excluding benefits, for those in work. We therefore came in behind the Bishops' amendment to try to protect children caught in that situation.

Lord Freud: I am delighted to have a trip down memory lane, but since we have changed the basis of the measure, as noble Lords have pointed out, we might just spend unnecessary time on it.

Let me go on to the present proposition, which is to align the cap with the circumstances of many working people throughout the country. The Bill reduces the cap to £20,000 a year for lone parents and couples and £13,400 for single people without children, except in Greater London, where it will be £23,000, with a lower rate of £15,410 for single people without children. These are still significant amounts: £20,000 is the equivalent of an annual pre-tax income of £25,000, while £23,000 is equivalent to an annual pre-tax income of £29,000. About four out of 10 households in London earn less than £23,000 a year, while approximately four out of 10 households outside of London earn less than £20,000.

Baroness Hollis of Heigham: Has the noble Lord assessed the figures for their income rather than their earnings?

Lord Freud: I do not have that to hand. As a noble Lord said, we are now reaching a judgment on how to arrive at those figures. Indeed, the debate that we had in 2012 basically looked at the same point. We are looking at the level of earnings that we feel is fair above which people should not get benefits.

Baroness Hollis of Heigham: My Lords, the Minister is not addressing the issue. What matters is income versus income, not income versus earnings, ignoring additional income. Therefore, if the Minister is going to run this argument, which I understand is a perfectly proper argument to run—and I think it commands a lot of support—he has to include actual income and not exclusively earnings, because those families that he is talking about will almost certainly have additional payments for their children and additional payments for their housing.

Lord Freud: Yes, I am just looking here at the level of earnings and that is the figure that we are taking. These levels for the cap will reinforce our message that work pays, and that it is not fair for someone on benefits to be receiving more than many working households. Having looked at the evidence, we believe it is fair to have a higher cap in London.

Baroness Hollis of Heigham: This question session has not got anywhere. Those families do not have an income that is higher than that for those at work. The point is that if you compare it only with earnings, you are possibly excluding a substantial portion of income that is available to those in work. I hope that the Minister will correct his statements as he goes through, otherwise he is comparing apples with oranges, and it does none of us any kindness to continue down that path.

Lord Freud: I have tried to make it as clear as I can that we are looking at the level of earnings here. It is not a matter of direct comparisons between earnings and income: we are looking at the level of earnings.

Lord Kirkwood of Kirkhope: May I try to make sense of this? I do not think that the Government know what the disposable income per head is of the families that are subject to the benefit cap. That is my objection, because big families obviously have a disposable income that is divided by the number of people in the house. I do not think that these metrics exist, and therefore the noble Baroness is absolutely correct: it is not safe to rely on earnings, because you are not comparing like for like. The really important question for me is: how do we know, in relation to the impact it has on children, what the disposable income per head is in those families that are subject to the cap?

Lord Freud: I accept that that is a point about which noble Lords opposite are concerned, but I can only reiterate that we have reached these levels by using the basis of earnings. That is the basis.

Lord Oates (LD): Is the Minister not, then, concerned about disposable income and the impact on children? He said that these Benches were concerned: are he and the Government not concerned?

Lord Freud: We are very concerned about the interests of children, and I will come on to that. Let me summarise the point that I will make later. The reason for this is that it is in the interests of children to be in a household where one or two adults are in work. All of the measures that we have suggest that they do better in life when that is the case.

The tiered element of the cap means that we estimate that roughly three-quarters of capped households will live outside of London, with around 24% in London. It has been set at a level that also recognises that housing constitutes one of the biggest costs for households. For example, in London, housing benefit awards are on average £3,000 a year more than they are elsewhere in the country. Even in the south-east, the average housing costs are only around half those for London, so we think it right that the benefit cap take those differences into account. I say to the noble Lord, Lord McKenzie, that that might account for the difference between the regional proposal and this two-tier proposal.

On the question from the noble Baroness, Lady Sherlock, on savings versus costs, the Treasury-led scoring process and the estimated savings are agreed by both the Treasury and the Office for Budget Responsibility, which felt them to be a robust and fair estimate of the policy change. On the question from the noble Baroness, Lady Manzoor, about where people would go, interestingly, under the current cap—if that is an indicator—very few capped households have moved house and generally those who moved did so only a short distance, so the double hit that concerned the noble Baroness is a relatively small issue. Again in answer to her, the impact assessment sets out that 59% of capped households will be those of female lone parents. There are about 1.25 million lone parents in employment in the UK, so combining parenting with childcare is possible. Those doing 16 hours work a week and receiving working tax credits will be exempt from the cap. Later, under UC, the measure will be 16 hours at minimum wage.

We believe that introducing this tiered level will build on the success of the cap and do more to improve work incentives throughout the country while promoting greater fairness. Again in answer to a question from the noble Baroness, we set out the impact of the cap on protected groups in our impact assessment. On the question from the noble Baroness, Lady Lister, I am not utterly convinced that she believes in what the Opposition Front Bench says: that work is the solution for people. However, work remains the best route out of poverty. We know that around 75% of poor people left poverty altogether where the parents moved into employment. One of the genuine points that I agree with is the danger of a cul-de-sac. The present legacy system has that wrinkle in it because it traps people at the 16-hour point. One thing we are now beginning to see in universal credit in the north-west is the freeing of benefit recipients from that particular cul-de-sac.

Amendment 74, tabled by the noble Baroness, Lady Lister, and the noble Lord, Lord Kirkwood, provides that the application of the cap may not reduce any welfare benefit where that would result in a breach of a person's convention rights within the meaning of the Human Rights Act 1998. I will not go through the sterling work of my noble friend Lord Blencathra, who was utterly masterful on the legal aspects and certainly taught me a lot. However, I can say that the Government are of the view that the Bill is compliant with the European Convention on Human Rights, so this amendment is unnecessary.

On the question from the noble Baroness, Lady Lister, on the poverty impact, clearly we do not comment on leaked internal documents which may or may not be part of the iterative policy process. One of the real issues behind that is that any assessment of child poverty must not be purely static but should take into account the dynamic effects of the cap.

5.15 pm

We have seen dramatic proof of the importance of that in recent years. Every year, within my memory, reputable outside experts—the IFS and others—have predicted another increase in child poverty and, so far, at least, every year we have seen a decline in child poverty. That is because—in my view; I do not know whether it is the Government's view—the dynamic effects can be much more important than the static ones.

Baroness Lister of Burtersett: I said to the Minister that I am quite happy for any estimates of the impact on child poverty to be qualified with reference to possible dynamic effects. Has the department assessed the likely impact on child poverty, taking account of the dynamic effects it hopes to see as a result of the cap?

Lord Freud: I am clearly not in a position to comment on the work that we do, but I can say that estimating dynamic effects is extraordinarily difficult. We are working on improving how we do that. One of the reasons why we can often get into sterile debates is

[LORD FREUD]
that getting hold of the real figures and the real behavioural impacts is very difficult. I quoted our child poverty experience. The latest *Universal credit at work*, in which we outlined theses new approaches, set out big behavioural changes. Many more people—13% more—are going into work, compared with the comparable JSA. That is an example of behavioural effects that is very difficult for us to pre-estimate.

Amendments 92, 93 and 94 are tabled by the noble Baronesses, Lady Meacher, Lady Sherlock, Lady Pitkeathley and Lady Lister, the noble Lords, Lord McKenzie and Lord Kirkwood, and the Earl of Listowel. These amendments would require the Secretary of State, when reviewing the level of the benefit cap, to have regard to any impacts on disabled people, their families and carers; the relationship between the level of the cap and median household income; the promotion of the welfare of children in the United Kingdom; households affected by the cap; and public authorities, local authorities and registered social landlords.

The noble Baroness, Lady Sherlock, asked whether we will go on reducing the cap. The Bill requires the Secretary of State to review the level of the cap at least once during a Parliament and provides him with the power to review it at any other time if he considers it appropriate. We believe that this provides the most effective means of ensuring that the cap stays at the appropriate level, while also providing the stability that households on benefits require. Any changes to the benefit cap level will be sensitive to its key principles of maximising work incentives, bringing fairness for working households and providing a reasonable level of support for capped households.

The noble Baroness, Lady Pitkeathley, spoke about carers. I emphasise that the Government recognise the contribution carers make to society. I will deal with carers when discussing the amendment that appears in a later grouping.

The power to review the level of the cap is necessarily broad and has been drafted to allow the Secretary of State to take into account any matters he sees relevant—for example, the wider impacts on families and children. I do not think it right to prescribe in legislation any particular factor which must be considered as part of this review.

Amendment 94 requires the Secretary of State when reviewing the level of the benefit cap to take into account the impact on disabled people, their families and carers. As I mentioned, there are exemptions from the cap for people who are a member of a household that includes somebody who is entitled to attendance allowance, disability living allowance and PIP.

That has been in place since the cap's introduction and reflects the fact that these benefits are paid in recognition of the extra costs that disability can bring. There is also an exemption for those who are entitled to the support component, and the equivalent in UC, whose health conditions mean that they are unable to undertake any work-related activities. Those exemptions are not changing.

The new provisions will allow the Secretary of State the ability to consider the context of the cap and its level in a broad and balanced way. For example, he may take into account, although he is not limited to these, factors such as: earnings, housing costs and the wider impact on disabled people, families and carers.

Lord Kirkwood of Kirkhope: How does this fit into the annual uprating statement? The Minister has just said that the Secretary of State, who has this power, must do it once in every five-year period. There is an annual social security uprating where all these things are considered. Surely we are not going to have, at random in the middle of the year, the Government coming up with a judgment on the cap that is in isolation from the rest of the established procedures for uprating benefits.

Lord Freud: The established procedures, of course, are basically to go in line with CPI; this is a much broader look than that, as I have tried to describe. While we have safeguarded those with illness or disability, we do not think it right that in undertaking a review of the level of the cap the Secretary of State should have a legislative requirement to take into account any extra impacts on specific groups.

Baroness Hollis of Heigham: If the Minister says—quite rightly and decently, and I am sure that the whole House will support him in this—that he will exempt people who are in the ESA support group because the Government acknowledge that they cannot be expected to work, and therefore the issue of work incentives does not apply, why does he not apply the same reasoning to lone parents with children under three or to the carers in full-time unwaged work that my noble friend Lady Pitkeathley described? The Government accept that those two groups are effectively out of the labour market in exactly the same way as the support group, yet one, decently, is exempted from the cap, while the other two, indecently, are not.

Lord Freud: There is a difference between having a specific provision that does not require people to work and having one that actually financially incentivises people to work. That is the difference. As the noble Baroness pointed out, we do not require anyone with a child under three to go to work, but people often go into work with a child much younger than that. When people look at this measure on balance, they may think that it is the appropriate thing for them. That is my best answer to this question.

This is a peculiar process and I am running incredibly late now, but I think that noble Lords would prefer me to finish. I have just had so much dialogue, and that is rather unusual.

The Lord Bishop of Durham: Will the Minister accept that he has just proved my point that children get ignored? I asked him a specific question about whether or not that happens, and he has not answered it.

Lord Freud: I apologise to the right reverend Prelate. The only reason why I have not answered by now is that I am taking an intolerably long time to get through this speech. I will come to his point. I crave noble Lords' indulgence to let me get through and then, right at the end, if they have some outstanding questions, we will have another—

A noble Baroness: Pass.

Lord Freud: Thank you.

The revised cap levels are being set to create a strong work incentive to ensure fairness for both working households and those receiving out-of-work benefits, while providing a safety net of support for the most vulnerable. Amendment 92 would require the Secretary of State to have regard to the relationship between the level of the cap and median household income—a point reinforced by the noble Lord, Lord Beecham. Additionally, it would require that the impact on households affected by the cap was considered along with the financial impact on public authorities, local authorities and registered social landlords.

In future, when reviewing the levels of the cap, the Secretary of State must take into account the national economic situation and, where necessary, he will be able to consider any other matters that he might consider appropriate. Earnings and housing costs may be very much a part of this, but other factors also may be, such as inflation, benefit rates, the strength of the labour market and any other matters that may be crucial and relevant at the right time. Any decision when taken in the round will balance these factors with the impacts of the cap on its principal aims: to incentivise work and bring greater fairness to those in work while maintaining support for the most vulnerable.

Reinstating any direct link between future cap levels and the median household income undermines the changes we are introducing. Many working families earn less than the level of average earnings of £26,000 a year. It is important that relevant matters are looked at in the round. We want the Secretary of State to have the flexibility to consider a broad range of social and economic factors when reviewing the level of the cap in the future. Legislating for these specific factors to be considered unnecessarily reduces the scope for that.

Amendment 93, tabled by the noble Baroness, Lady Lister, and the noble Lord, Lord Kirkwood, would require the Secretary of State to take into account the need to safeguard and promote the welfare of children when reviewing the cap. I reiterate that we consider the impacts with regard to all relevant legal obligations when formulating the provisions of the Bill.

Now I move, at last, to the point made by the right reverend Prelate the Bishop of Durham. The welfare of children is at the heart of our reforms. It is important that children grow up recognising the value of work. Work provides purpose, responsibility and role models for children. The evidence shows that, for families responding to work incentives, the cap provided clear positive impacts on children and family lives through additional income and from the long-term positive role model effect provided by parents being in employment. There is clear evidence that children in workless families suffer worse educational outcomes compared to those in working families. That is why, as we discussed earlier, we are introducing new measures of worklessness and educational attainment.

The benefit cap is a key part of our aim to reduce long-term welfare dependency. The revised cap levels are being set to create a strong work incentive, ensuring fairness for working households and those receiving out-of-work benefits. These principles will guide a review of the cap levels in the future. It means the Government will be able to review the level of the cap in the light of any significant economic events that occur. The clause as drafted provides the best approach to allow for any future review to set the cap at the most appropriate level.

Before I ask the noble Baroness to withdraw her amendment, I await to be intervened upon.

Baroness Lister of Burtersett: My Lords, I will do so on the question of the welfare of children. First, there is no difference between myself and my Front Bench on this issue—there may be on some issues but not on this one. The noble Lord has not dealt with the point I made when I referred to what the noble and learned Baroness, Lady Hale, said, although I did not do so simply because she said it. Noble Lords have quoted from the IFS peer review, which showed that the great majority of those affected by the cap did not move into paid work; indeed, the House of Commons Library said:

"There is no general consensus that the … cap … is proving an effective means of moving claimants into work".

My noble friend also made a point about those who are not expected to move into paid work anyway. The point is: what happens to the welfare of children in those households which are still out of work? It cannot be in their best interest, which is supposed to be a primary consideration, to reduce the incomes of their parents further and further below the poverty line.

I also quite accept what was said about role models and the value of work, and so forth, but I remind the Minister that in one of our earlier debates I referred to some research from the University of Bath. That showed that where a lone mother goes into work then cannot maintain that job for whatever reason in an insecure labour market and falls out of work again, it raises big questions in those children's minds about the value of work, and that it can be totally counterproductive if you push people into paid work in a way that is not helpful to them and their families.

Lord Freud: On the last point, there are always particular cases such as those referred to by the noble Baroness, but the broad evidence shows that on balance children gain from their parents going to work. One other point is that noble Lords may not have clocked how the benefit cap works. Quite a lot of people have rather small amounts—£50 or so—capped. In many cases, if you do a small amount of work and earn £50 over a week, we cannot take the money away from you twice—we have capped you at that level—and those extra earnings are not then withdrawn, as they would be in many cases under the legacy system. We do not have data on that as they are very hard to get, but it would not surprise me if quite a lot of people earn small amounts of money which, in most cases, is 100% in their pocket.

5.30 pm

The Earl of Listowel: My Lords, I am grateful to the Minister for the care with which he is responding to these concerns, particularly about children. He will be

[The Earl of Listowel]
aware of a recent small study dated November 2015 from the University of Manchester on the impact of the bedroom tax. It found that children were hungry and were having difficulty in concentrating at school. The response from the Minister's department was that this was a small study which did not fit the larger picture. I would be grateful if, before Report, he could send a letter setting out what research will be undertaken in the 12 months following the implementation of this provision. What research will be commissioned to look carefully into the impact on children? I take his point that many children will benefit from their parents going into work but I am worried about those who do not.

Lord Freud: It was a small report on, I think, 14 children, and we aim to look at things on a much safer basis. I ask the noble Baroness to withdraw her amendment.

Baroness Sherlock: My Lords, I thank all noble Lords who have contributed to this extensive debate. There are three more groups to come on the same subject, so we are going to do it very good justice. Given the extent of the debate, I will not try to respond to all the many points that were made. I am grateful to all those who have contributed, particularly in trying to highlight the impact of this lower benefit cap on a number of different groups: on single parents, as the noble Baroness, Lady Manzoor, said; on disabled people, as the noble Baroness, Lady Meacher, said; on carers, as the right reverend Prelate the Bishop of Durham and my noble friend Lady Pitkeathley pointed out; and on children.

I decline to rise to the noble Lord, Lord Blencathra, and engage in political debates about who said what and when, but I confirm that it is the policy of the Labour Front Bench in both this House and another place that we oppose the reduction in the benefit cap to the new levels. I was hoping to respond to the noble Lord, Lord Lansley, but, sadly, he is not in his place. Perhaps when he comes to read this debate he will start to reflect that it is important for us as a House to understand what the Government are trying to do here. They have always offered two arguments for this measure: one is that it is related to work incentives; the second is that it is fair.

On work incentives, the noble Lord may not be aware that significant work incentives are already built into the system. In fact, the CPAG did a report on this very recently showing how much better off families with children already are if they work. The point is that this is comparing individual wages and household income. Someone may earn a certain amount in wages but how much the household needs depends on where they live, how many children there are, whether they have a disability and whether they are carers. As my noble friend Lord Beecham said, this is primarily driven by high housing costs in the private sector. Most people do not get anything like these amounts of money in benefits. Where they do, it is almost always because they have very high rents. That is not their fault; it is the fault of the state, which has failed to get a grip on the housing market, have enough supply and make sure that people can afford to rent in places where there are jobs without driving themselves into this situation. I urge the Government to consider that very carefully.

The point about the comparator really matters. Whether or not the Government are going to set it at 50% or something else, there needs to be a way of understanding at what point the Government would do this. I can create brilliant work incentives tomorrow: I will abolish all benefits. That would be a fantastic work incentive but it would not be reasonable. The point of a social security system is to support people who cannot work—to enable them to meet their needs and feed their children—and then, where appropriate, to support them in work. We have to get an appropriate balance between, on the one hand, the needs of families, and particularly of children and vulnerable people, and the ability of the state to afford it; and, on the other hand, work incentives.

It is not unreasonable for this House to want to understand how the Government reach that judgment. Once you take away any external benchmark, it can simply become an annual whim. That is not appropriate, but it is completely appropriate for this House not to get into the micropolitics but to say, "We want to understand the impact on individual families, and we press the Government to make clear their thinking so that each year we can judge what is a fair amount of money to give to families", as the noble Lord, Lord Kirkwood, pointed out.

In this country we have a very long tradition of Parliament looking carefully at what families need to survive and building up components of a social security system to address the different sets of needs. The benefit cap overrides all that, so it matters very much how it is constructed and it matters very much that the Government are transparent and accountable in the way that they go about creating it.

I shall not go into the other areas as we have a number of different debates coming up, but on the question of work incentives I point out that 85% of those who are capped at the moment are not in categories required to work, as we will come on to look at in two of the next three groups. Given all that has gone before and given all that we have yet to come, I beg leave to withdraw the amendment.

Amendment 72 withdrawn.

Amendment 73

Moved by ***Lord Best***

73: Clause 7, page 8, line 37, at end insert—

"(5C) Regulations under this section shall provide for an exception to the benefit cap for a person or couple who have been placed in temporary accommodation by a local housing authority in pursuance of its duties under section 188, 190, 193 or 195 of the Housing Act 1996.

(5D) The period for which the exception in subsection (5C) applies shall not exceed 39 weeks beginning with the date on which accommodation was first provided under any of the duties specified."

Lord Best (CB): My Lords, the noble Earl, Lord Listowel, and the noble Baroness, Lady Manzoor, have added their names to Amendment 73, which covers similar ground to Amendments 86 and 90A in

the same group. I am grateful to both Shelter, which has just released an important report on the alarming rise in homelessness, and the Local Government Association—I declare my interest as a vice-president of the LGA—for their input.

The amendment addresses one specific housing aspect of the proposed new benefit cap. Of course, it is because of the high level of housing costs that, in so many cases, the benefits to which some families are currently entitled will exceed the Government's new cap, as several noble Lords have already remarked. If the cap is set at £385 per week outside London, then the family in south Wales paying £65 per week for their council house is unlikely to be adversely affected. However, where an identical family lives in private rented accommodation in the south-east with a rent of £250 per week—and for a family with more than two children rents can sometimes be appreciably higher—they are in big trouble.

Earlier pleas for local, not national, caps have led to a differential for London, as we heard in our earlier discussion, but one level for London and one for every other region is pretty crude. The position is in fact rather worse in much of London, where a family may face a rent of £350 per week, as against a proposed new cap of £440 per week for all support—that is, leaving the family with just £90 per week to cover everything else after paying their rent. It is high housing costs that so often cause the problem of high benefit costs. This is an overarching problem facing the cap and it is going to cause huge problems for tenants, landlords and the Government.

This amendment covers only a narrow aspect of the problem but it is a highly significant one. It covers families and individuals placed in temporary accommodation by their local authority. Families accepted as homeless by local authorities under the Housing Act 1996 have to be found somewhere to live. To meet their statutory duty to house these homeless households, councils make use of temporary accommodation, which is usually provided in the private sector via a housing association or directly by a private landlord. Not only will the rent for this temporary accommodation be relatively high because of the high turnover and high management costs but councils have to add an administrative charge on top. The total rent, therefore, is likely to mean that the family's requirement for support takes them well over the new cap.

However, the family cannot go anywhere else—they are homeless, or just about to be so—and must accept the temporary accommodation on offer. They cannot negotiate over the rent: it is predetermined for them. They are stuck, but often only temporarily. Hopefully, in due course, with help from the local authority and often from one of the homelessness charities, the family will find its way into somewhere more permanent and at a more reasonable rent. However, while in the temporary accommodation, there is no option but for the rent to be paid, even though this would absorb almost all available support within the cap.

This amendment, therefore, looks at an exemption for those in temporary accommodation for a fixed period of 39 weeks. This is the same period of grace as for those who have lost their job. Those who are made redundant or whose employer goes bust, or those who lose their job for other reasons, need time to get a new job. It would be counterproductive to penalise a tenant by imposing an immediate benefit cap with the likely outcome of them incurring debt and/or having to move away from work opportunities. In just the same way, those who lose their home require a few weeks, at least, to secure a new place to live.

The Minister will well remember the amendment I proposed to the previous Welfare Reform Bill for a period of grace from the benefit cap for those who lost their job. On that occasion, the Minister generously decided to improve upon my suggestion of a 26-week period of grace, substituting a 39-week period. I now look forward to the same treatment for those who have lost their home and had to move to temporary accommodation. These people too need a period of grace to get back on track. The 39-week grace period would apply when a council accepts a household as homeless or about to become so. This would enable the rent to be covered in their temporary accommodation for a sufficient period, and in many cases enable them to secure new employment and/or find a proper home, hopefully at a more reasonable rent.

I am familiar with one case where a family lost their shorthold tenancy in Hillingdon. The landlord decided not to renew their tenancy—I guess because he was planning to raise the rent above the level for which housing benefit and local housing allowance has been available. The family became homeless and were housed in temporary accommodation in Slough. The two children remained at their schools in Hillingdon by getting up extremely early and getting home very late, with their mother also travelling daily from Slough to desperately try to retain links to job opportunities in Hillingdon. She succeeded, somewhat against the odds, and the family is settled, albeit paying a higher rent, back in their home borough.

A period of grace prevents drastic decisions being taken to move families to a low-cost area miles away, far from work opportunities, schools and networks of family and friends. The 39-week grace period makes complete sense, as the Minister's earlier amendment did, which provides this same period of grace for those who lose their job. A precedent exists already for exempting a family that has to move in dire circumstances. This is the exemption for households supported in temporary accommodation because they are fleeing domestic violence. There are precedents, therefore, both for a 39-week grace period and for exempting vulnerable groups that have to go into temporary accommodation.

I am rather nervous the Minister may respond that, as with other cases where a household has difficulties with support for housing costs, the allocation of funds to local authorities for discretionary housing payments, or DHPs, could take the strain. I know that the noble Lord, Lord Kerslake, will pick up on this point, with particular reference to the difficulties of stretching the rationed DHPs in London. Picking up the cost of rent for families in temporary accommodation whose benefits are capped already absorbs up to 60% of the discretionary housing payments in some London boroughs. The lower cap will mean an additional call on DHPs that

[LORD BEST]
will be positively overwhelming in the hardest-pressed places, bearing in mind that these discretionary payments are meant to fill so many other gaps, not least where all are agreed that the so-called bedroom tax should not be payable. Moreover, it is hugely increasing the administrative burden on councils to ask them to exercise discretion on a case-by-case basis on a much bigger scale.

The other grounds on which the Minister might suggest that this amendment is not a good idea is that the new lower cap will coerce councils into negotiating lower rents with landlords. But local authorities are already finding it extremely difficult to persuade landlords to enter into these temporary accommodation agreements, and the existing financial system—quite properly aiming to keep families out of bed-and-breakfast hotels—already strongly incentivises councils to get the rents down. Therefore, I do not think that there is mileage in this argument.

Would there be a cost to government in allowing a period of exemption from the cap for those placed in temporary accommodation? Yes, but this is time-limited and a concession that represents a trifling expenditure in the wider context and saves huge costs—perhaps lasting a lifetime—if councils, in fulfilling their statutory duties, feel compelled to dispatch families to the cheapest areas of the country where their employment prospects are much lower, children are likely to be badly hit by changing schools and all the family will miss local networks of friends and family. I hope very much that this amendment appeals to the Minister. I beg to move.

5.45 pm

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

My amendment is very similar to the other two amendments in this group, and I will not repeat what I think was a very compelling argument made by my noble friend Lord Best. What I would like to do this evening is focus on three key reasons why I think that the Government should reconsider their approach to this issue. The first reason is the rising level of homelessness, the second is the quadrupling of the number of people who will be caught by the cap and the third is the inadequacy, as my noble friend Lord Best has said, of the discretionary housing payments fund.

Let me deal with the issue of rising homelessness first. My noble friend Lord Best referred to the recent report by Shelter. This report found that the number of children in temporary accommodation is at a seven-year high. The total number of people in temporary accommodation from the period of July to September 2015 was 68,500. That was a 12.5% increase on the year before. So we are clearly experiencing a significant rise in the levels of homelessness. The effect of this will be that, this Christmas, Shelter estimates that some 103,000 families will be in either bed and breakfasts, hostels or temporary rented accommodation. That will be a very grim Christmas for those families. Of those families, something like one in four are living in a different area from the area that they previously lived in. That means that they are away from their children's schools and family support. In London, that figure is one in three. This is a very significant issue that is growing in its scale and impact.

The second issue I referred to is the number of people who will be caught by the cap. As has already been said, that number is likely to quadruple, adding an extra 90,000 people. Therefore, there will be two effects on the issue that we are speaking about, and that in turn will impact on the financial consequences for local government. It is important to say that the people involved here do not have any real choices. The circumstances they face—losing their shorthold tenancies or family break-up—will undoubtedly lead them to a position where they need to move and move quickly. Similarly, local authorities will have little choice, given the limited accommodation that they have available to them to put people into temporary accommodation, even though the management costs of that accommodation are higher. So we face the situation where there is likely to be rising homelessness, a quadrupling of the numbers caught by the cap and people, through having no great choices of their own, needing to go into temporary accommodation with higher costs.

In the past, the response has been that the discretionary housing payments fund will cover this. The evidence produced, again by Shelter, suggests that that is unlikely to be the case. We know that, in London, the scale of the costs through the DHP funding is already around £4 million. It has been calculated by Shelter that for one local authority alone, Tower Hamlets, this could add a further £2 million per annum in terms of costs. I do not believe that the discretionary housing payments fund will be the answer to this issue. It will squeeze out the other reasons why local authorities need to use this fund. They will therefore be faced with a choice of either compelling families to move further away so that the cost is lower or, alternatively, dipping into resources that they have for other purposes. We will face an increasing squeeze on those local authorities that they will not be able to cope with.

The Minister may say that DHP funding is rising. Indeed, it is. It will rise from £165 million this year to £185 million in 2017-18. However, it falls to £140 million in 2021. Therefore, this fund goes up, but it goes down again, whereas the pressures that I have spoken about are inexorably rising. A simple way out of this issue is to exempt families in temporary accommodation, as has been proposed. This recognises the reality that there is little choice and that, if we ignore this issue, we will increase the pressure on local authorities to a point where it will damage the finances of those authorities and the prospects of those families.

Lord McKenzie of Luton: My Lords, I speak to Amendment 86, which is in my name and that of my noble friend Lady Sherlock. I also speak in support of Amendment 73 moved by the noble Lord, Lord Best, and Amendment 90A in the name of the noble Lord, Lord Kerslake. As we have heard, regardless of whether the benefit cap has played a role, local authorities remain legally obliged to rehouse families who are demonstrably homeless through no fault of their own, are vulnerable in some way or are in priority need for rehousing.

Families will be placed in temporary accommodation while a council decides whether it owes them a rehousing duty and then until a settled home can be found. For some families, the wait for rehousing can be considerable. I note that the noble Lord, Lord Best, has a 39-week grace period. I understand that that is likely to be sufficient in the overwhelming majority of cases but not in all cases, particularly in London. While in temporary accommodation, councils charge families rent to cover their own costs and expenses, and this is commonly paid for by housing benefit. In some cases, councils have to top up additional costs out of their own funds or, as we have heard, the limited pot of discretionary housing payments.

Temporary accommodation is generally leased by local authorities from the private sector at a premium, placing a considerable burden on them. Councils are already struggling to secure enough temporary accommodation as a result of the combined effect of limited funding and a shortage of self-contained accommodation. This is already leading to an increase in bed-and-breakfast use or people being rehoused away from their local area. The lower benefit cap will increase demand for homelessness services and exacerbate the pressure on the local authority supply of temporary accommodation. With more homeless families affected by the cap, local authorities are likely to be forced into further subsidising the cost of temporary accommodation. This will be difficult for cash-strapped councils, increasing the incentive to place families in the cheapest areas far away from their support networks.

It will also make it harder to permanently rehouse homeless families, as the benefit cap will make alternative housing options unaffordable. For larger families, even social housing will be subject to the cap. The policy therefore risks the perverse scenario in which families are made homeless because of the benefit cap and trapped in the limbo of temporary accommodation by the benefit cap at the expense of the public purse. The amount that can be reimbursed through the local housing allowance is limited to £500 a week, which means that other costs over and above that amount must be met by local authorities. In some cases, this will come from funding for discretionary housing payments, but often the necessary funds will have to come from elsewhere, given that DHP funds are in such short supply in the context of seemingly insatiable demand.

We know that the Government have declined to collect statistics which might help them measure the extent to which any purported savings from capping household benefits are simply being shifted on to local authorities in the form of additional homelessness costs. Our honourable friend Emily Thornberry MP sent freedom of information requests to every local authority in London over the summer and the findings throw doubt on the idea of the cap as a savings measure.

In the first year following the introduction of the cap, London councils spent a combined total of £19.2 million supporting households which had been hit by it. In the second year, this rose to £23.3 million altogether. Some boroughs spend more than 80% of their total DHP allocations on supporting capped households, and in most boroughs the proportion is increasing each year. To date, local authorities in the capital have spent almost £47 million in DHP funding as a direct result of the benefit cap and it is likely that this is just the tip of the iceberg in terms of the overall costs involved. Reliance on temporary accommodation is a significant driver of these additional costs.

As we have heard, across London more than a quarter of households currently affected by the benefit cap are living in temporary accommodation and in some boroughs it is much higher. In Waltham Forest, apparently a staggering 58% of capped households live in temporary accommodation. This compares with less than 1.5% of the overall population of people claiming housing benefit. The disproportionate presence of families in temporary accommodation among households affected by the cap is a huge issue for local authority spending. It is also a real source of human misery as, increasingly, councils are having to house homeless families in temporary accommodation outside their area, and sometimes many miles away from their support networks and their children's schools.

Our amendment would exempt newly homeless households from the benefit cap. This would allow councils to continue to procure nearby temporary accommodation and make it easier for them to move households into affordable accommodation. It will also help councils focus their DHPs and their own budgets on homelessness prevention. If the Government are serious about cutting back on public expenditure associated with the benefit system, and in targeting the benefit cap at families in a position to make choices about where they can afford to live, it is hard to see why they should argue against exempting homeless families being housed in temporary accommodation.

Lord Freud: My Lords, these amendments seek to exempt people in temporary accommodation from the benefit cap. I cannot agree that it is appropriate to have a blanket exemption from the cap for all those living in temporary accommodation, even if it is time limited in the case of Amendment 73. Rather, I believe that the best approach is to provide support so that people may better address their barriers to work. My challenge to the noble Lord, Lord Best, is: if there were to be a 39-week exemption, how would that not have a perverse incentive on people staying in temporary accommodation longer term if it is likely that the cap will apply to them when they move? That is the reason for our approach.

Discretionary housing payments are available from local authorities for those households who need additional support in adjusting to the cap. We have made £800 million available over the next five years for all the welfare reforms. However, in particular areas, one of which is London, this will be a substantial element. In the Autumn Statement, it was announced that further DHP funding will be made available for the most vulnerable people, including those who may be in supported accommodation. In 2016-17 it will go up from the current level to £150 million, and the allocation of those funds reflects the new measures we are bringing in, as does the timing of their introduction.

We have already made provision to support the most vulnerable people who might be affected by the cap. Housing benefit paid to households in specified

[LORD FREUD]
accommodation is disregarded from the benefit cap and we have included refuges within the definition of "specified accommodation". The disregard applies to benefit cap cases under both housing benefit and universal credit. While this does not mean that these households are exempt, by not including housing benefit in the calculation we expect that the vast majority of these vulnerable cases will not be affected by the benefit cap.

Finally, from April 2017 the weekly management fee, currently £40 in London and £60 elsewhere, will be abolished and replaced with a grant that devolves this funding to local authorities. Unlike the existing management fee, the new grant will not count towards the benefit cap and will help local authorities tackle homelessness more effectively. I would therefore ask the noble Lord to withdraw his amendment.

6 pm

The Earl of Listowel: My Lords, I would be grateful if the Minister provided a little detail on the research that will be coming forward after the Bill is enacted so that I and we can see its impact on children. For instance, for some time now the University of East London has been researching the issue of family homelessness. Is the Minister thinking of talking to such institutions? Going back to the previous debate, it is important to get some high quality research that goes into the detail and granularity of the impacts of these measures.

Lord Freud: The noble Earl will be aware that an enormous amount of research is conducted in this area. I will write to him with anything specific that I can on our research proposals.

Lord Best: I thank all noble Lords who have participated in this mini debate, and particularly the noble Lords, Lord McKenzie of Luton and Lord Kerslake, for their contributions to one of the key housing aspects of the wider debate on the benefit cap. The noble Lord has found a fundamental flaw, as he sees it, in the argument in favour of temporary accommodation being exempted: that there will be no incentive for those who are placed in such accommodation to move for the full 39 weeks, because as soon as they do they will no longer be exempt from the cap. This is a consideration I shall have to ponder in some depth, and I am grateful to the noble Lord for explaining it. I fear that the position already is not that the vast majority of people will not be affected by this arrangement, because we know that an awful lot of families are being moved well away from the place where they are most likely to get a job, where their children go to school and where they have their family and friends close by to help them. A high proportion of families are now having to move a long way away because of the need to keep down the cost of temporary accommodation. We will have to think some more about this issue, but in the mean time, I beg leave to withdraw the amendment.

Amendment 73 withdrawn.

Amendment 74 not moved.

Amendment 75

Moved by ***Baroness Meacher***

75: Clause 7, page 9, leave out lines 1 and 2

Baroness Meacher: My Lords, in moving Amendment 75 I shall speak also to Amendments 78, 80, 81 and 83. The amendments seek to exempt those in receipt of carer's allowance or disability benefits from the cap. I shall talk about the two groups, carers and disabled claimants.

As Carers UK has pointed out, unpaid carers save the state an estimated £132 billion per year. Clause 7 includes just one of a number of measures which will have a damaging impact on the finances of the 6.5 million carers in the UK. The lives of carers are already extremely hard. A Carers UK survey of 4,500 unpaid carers, mostly caring for 50 or more hours a week, shows that almost half of them, some 41%, are cutting back on essentials such as food and heating—one wonders what else they could cut back—while 45% said that financial worries are affecting their health. I want to draw to noble Lords' attention the fact that Clause 7 breaches a Government election manifesto commitment to increase support for full-time unpaid carers. The cuts set out in Clause 7 and elsewhere in the Bill come on top of previous changes which Carers UK estimates will result in a cut to carers' incomes of more than £1 billion between 2011 and 2018. I would be grateful if the Minister responded to this point.

The Government's impact assessment identifies that 6% of carer's allowance recipients will be subject to the cap. Those who have had their benefits capped at £26,000 will lose an average of a further £64 per week. The figure of 6% may seem small, but for every one of those families it will be devastating. The cumulative impact of the cuts, together with the cut to WRAG benefits and further reductions in local government funding, will inevitably undermine the capacity of many carers to continue their invaluable caring work. I know that carers looking after disabled partners and disabled children aged under 18 are exempt from the cap, but why are those who care for adult disabled children, siblings or elderly relatives not also exempt? I would be grateful if the Minister explained this. Why should one group of carers be given preference over another group? Surely that is an anomaly.

The Minister will be aware that on 26 November 2015 the High Court ruled that carers in receipt of carer's allowance should be exempt from the benefit cap following a judicial review challenge to the policy and its impact on carers and the disabled, seriously ill or older loved ones they support. The judge's comments will be known to the Minister, but I want to quote one short passage in which he concluded that, "With carers being unable to mitigate the cap, this endangers the sustainability of the caring role and indirectly discriminates against the disabled person, who will no longer be able to receive care". What do the Government plan to do in response to this ruling? I hope the Minister will clarify the position for noble Lords.

Recent DWP research shows that households containing carer's allowance claimants subjected to the cap are more likely to move into work than those

not capped. To what extent has the cap already led claimants to abandon their caring responsibilities in order to return to work? How many disabled people have moved into residential accommodation as a result? The implications for social care services and costs to the public purse may be considerable. Does the Minister have information on this point? In fact, will the cap save money as far as it affects carers, or will it cost the Exchequer a great deal?

I will say a brief word about the amendments aimed at excluding disabled people's benefits from the calculation of the cap for any household. We have already discussed the severe consequences of this Bill for disabled people, particularly if all the cuts go through unmodified. I want to say in the context of Clause 7 only that disability benefits were introduced to compensate disabled people for the additional expenditure they incur because of their disability. If these benefits are included in calculating the cap, families with a disabled member will be poorer than able-bodied families. They do not benefit in material terms from their disability benefits, because all those benefits do is compensate for the higher costs of travel, heating and so on than able-bodied families incur. Is it the Government's intention to hit disabled people particularly hard with this legislation? If they wish to treat disabled people on an equal basis with others, disability benefits should indeed be excluded from the cap calculations. I would welcome the Minister's comments on this point. I beg to move.

Baroness Pitkeathley: My Lords, I rise to strongly support the amendment moved by the noble Baroness, Lady Meacher. We have said already that the cap is applied unequally to carers. While I welcome the exemption for households in receipt of PIP or DLA, it means that carers who are considered to be not in the same household as the person they care for will be penalised.

Lord Freud: In the interests of saving time, it may be worth me saying one of the key things that I will say as I close. Clearly, noble Lords will be aware of the High Court judgment in the case of Hurley and others. The Government are considering this closely. Can I ask noble Lords to allow me to come back to them on this important issue at a later date? By that I am hopeful that it will be on Report. I am hopeful but I cannot guarantee it—well, it must be at Report stage. I will come back with the Government's decision on that, which might help to truncate some of our deliberations. That is all I can say at this stage.

Baroness Pitkeathley: I am grateful to the Minister and will happily truncate and wait with bated breath for his response on Report. Meanwhile I simply support the amendments of the noble Baroness, Lady Meacher.

The Earl of Listowel: I rise to speak to my Amendment 90B which would exempt kinship carers from the benefit cap. I am most grateful to the noble Baroness, Lady Drake, for adding her name to the amendment.

I will be brief as the Committee has already discussed kinship care and the Minister has knowledge of it through his charitable work. One does not need to believe in an afterlife to know that there is a hell. One need only hear some care-experienced adults speak of their experience. The experience of too many is: to grow up without love; to be betrayed by those they trust; to be left in that position for years before the state intervenes; to experience rootlessness in care often; to look to alcohol or drugs for respite from guilt and the inability to relate to others; and to give birth to child after child only to have each baby removed by the state.

Our amendment increases the chance that these souls will know heaven rather than hell, and increases the chance that they may know love and security and then go on to love and be loved themselves. The best rehabilitation we can offer children taken for their protection from their parents who cannot love them is the chance that these children can find love themselves and go on to be adults who will start healthy families and have children they can love and who love them.

We know that 30% of kinship carers are on housing benefit and 36% of the larger of these families are on HB. There is a concentration of kinship care in London, with 1.7% of children in this city cared for under kinship care arrangements. Brent has 2.8% of its children in kinship care—the highest level in England. Failure to amend this Bill will put more of these families into poverty and, I fear, uproot others.

What kind of choice is it that the state is forcing families to make when in order that an aunt or uncle should do right by their niece and/or nephew, they must uproot their own children from their home, friends and school, leaving behind their own support network, to live in poverty somewhere they may not know? A grandmother carer said of the Bill as it stands, "I had a really well-paid job and now I worry constantly about money. I always listen to what the Government are doing as the changes with universal credit will affect me and my little one. I am scared of losing my home and being homeless". I beg the Minister to accept our amendment and ensure that this Bill makes the welfare of these particular children paramount.

Baroness Lister of Burtersett: I shall be very brief. I support what the noble Earl, Lord Listowel, said about kinship carers. I am delighted that the Minister will come back before Report on the question of carers. I remind him of something he said during the passage of the 2012 Act. He said that one thing the Government were not looking to encourage was a change in the carer's behaviour so that they stopped caring.

I hope that he will remember that statement—and what he has heard about how strongly Members of this House feel about the inappropriateness or "indecency", as my noble friend put it, of applying the cap to carers—when he makes these considerations about how to respond to the High Court case.

Baroness Pitkeathley: Perhaps I might just add to that. I ask the Minister to bear in mind that we have already heard that many carers are working more than 50 hours a week. That is more than any full-time job and we need to keep that in mind when we consider pushing carers into work.

6.15 pm

Lord Blencathra: I rise briefly to oppose the noble Baroness, Lady Meacher, because her amendment would remove the ESA part in Clause 7(4)(e). I do not think that removing it will serve people with disabilities well. To be fair, when the Labour Government introduced the ESA back in 2008, they had a noble aim: to help support many people with disabilities into work. I commend them on that. The work-related activity group—WRAG—within ESA was originally intended to act as an incentive to encourage people to participate in work-related activity and therefore return to work quicker.

Previously in Committee, noble Lords suggested that people in the WRAG have been declared not fit for work, but that is not the case. They have been declared to have "limited capacity for work", which is not the same thing, as most noble Lords will understand. That is an important distinction, for the purpose of this group is to encourage people into work. Indeed, when the Labour Government introduced the benefit White Paper, *Raising Expectations and Increasing Support: Reforming Welfare for the Future*, published in 2008, they stated that they aimed to reduce the number of people on incapacity benefits by 1 million by 2015. I am making no criticism or political comment. It was a wise and noble aim, yet the reality is that we have failed and only 1% of people in the WRAG leave the benefits system each month.

It is good that the Department for Work and Pensions is currently looking to reform this area and I look forward to seeing my noble friend's White Paper in the new year. It would be a backward step to remove the ESA. We have already discussed this, and my noble friend has already stated today the tremendous success that the cap has in getting people into work. Removing the ESA would be slightly counterproductive.

Baroness Meacher: Very quickly, I just want to raise the question of whether the noble Lord, Lord Blencathra, thinks that there is a problem with the work capability assessment or with the ESA WRAG. I am aware that people with Parkinson's are already assessed as having limited capacity for work. The idea that their capacity will grow is frankly inconceivable.

Lord Blencathra: The noble Baroness makes an interesting point. We addressed the capacity for work test at an earlier stage. There are concerns and it may not be perfect. It is very difficult to assess. We can have 100,000 people with MS and every single one is different, so it is very difficult to come to a firm conclusion. I know that the Government are continually improving it. Labour improved it. The coalition improved it and the current Government are trying to improve that test. I hope that my noble friend will continue with that.

Baroness Sherlock: My Lords, I rise to speak to Amendments 87 to 90 in our name, and to comment briefly on the other amendments in the group. Ours are probing amendments designed to encourage the Minister to talk to the Committee a bit more openly than he has been able to do so far. What behavioural responses are being sought from some of the groups of people affected by the cap?

I thank the noble Earl, Lord Listowel, for talking about kinship carers so powerfully. I shall be listening very carefully to what the Minister says at the end, and I hope to hear him engage rather more substantially with the issue than I feel he did when this came up in earlier stages, particularly in relation to the two-child policy.

Amendment 87 would exclude from the cap anyone claiming carer's allowance. I am very happy to press pause on that and come back to it on Report. The Minister should be aware that expectations are now running exceedingly high in this House. I am sure that what he has to say when he comes back will be a delight to all of us, and I very much look forward to that.

There are two things from the judgment that he might still take, even if the Government decide to accede to the very small number of people who were there. The first goes to a point made by the right reverend Prelate the Bishop of Durham. At the opening part of the judgment Mr Justice Collins said that,

"to describe a household where care was being provided for at least 35 hours a week as 'workless' was somewhat offensive".

That was a very good point and one we could all do well to remember.

The other point that Mr Justice Collins made, which is of wider relevance, was that what often seemed small capped sums for the DWP could be such a loss to these families as to "tip them into destitution". One of the cases he gave as an example was of somebody who was losing £11 a week. These may seem small sums to the department but they can make the difference in Dickensian terms between happiness and misery to individual families. I hope that we will all bear that in mind.

Amendment 88 would exempt from the cap those who are claiming universal credit and are not subject to all work-related requirements. Amendment 89 would exempt people in receipt of ESA in the WRAG group, which was just addressed by the noble Lord, Lord Blencathra. Amendment 90 would exempt claimants of income support. In the impact assessment, the Government talk about reducing the levels of the cap for those not making a "behavioural response" by an average of £63 a week. That is a lot of money.

These amendments require the Government to explain what behavioural responses are being sought. The Minister says that this is hugely successful in getting people into work. In fact, as we have already heard from the IFS, the majority of people affected are not responding by either moving house or moving into work because 85% of them are not required to work as a condition of receiving benefits. Therefore, the cap will try to push into work certain people who would otherwise not be required to do so because they are on ESA, or they are the parents of very young children, or they are carers—a point made very strongly by my noble friend Lady Hollis on an earlier amendment.

The only ways to escape the cap are to move into work of at least 16 hours a week—to open a working tax credit claim, or be on the minimum wage while on UC—or move home. In the case of people on ESA—the point made by the noble Lord, Lord Blencathra, notwithstanding—does the Minister accept that some people in the ESA WRAG group will either not be capable of working at the moment, or will not be able

to sustain 16 hours' work a week, or will not be able to work consistently because of the nature or their illness or disability? If that is the case, can he explain to the Committee what behavioural responses he wants from them and, if they are not capable of making any of the available responses—working or moving house—does he think it fair that they should simply have their income cut because they are incapable of doing the thing he wants them to do?

In the case of parents who are capped, the normal work requirements do not apply, so a single parent or main carer could have two children, including a very young baby, and be expected to work if the cap means that they could not otherwise afford to pay their rent. Whenever we talk about single parents or parents working, the Minister tells the House that the Government are putting lots of extra money into childcare and that parents of three and four year-olds will have extra childcare, as will disadvantaged parents of two year-olds, but here we are talking about children who could be one or two years old. There is no free entitlement to childcare when a child is under two. Even the provision of childcare for disadvantaged two year-olds is for only 15 hours in term time, which would not match the requirements of someone moving into a job for 16 hours a week throughout the year to escape the benefit cap.

Research undertaken by the Family and Childcare Trust found significant gaps in provision for young children in 136 local authorities surveyed in England and Wales. The evidence bears this out. It shows that single parents with younger children are already less likely to move off the cap than other groups, presumably because they are struggling to find suitable flexible jobs and suitable childcare while combining them with minding very young children.

The impact assessment also talks about the aim being to improve work incentives, but I wonder whether the Minister has read the report from the Child Poverty Action Group, which showed just how strong work incentives were, even for families who might be getting significant amounts of benefit. It gives the example of a very rare occurrence of a lone parent with four children, who would be better off by £105 a week working just 16 hours a week on the minimum wage. Therefore, work incentives already exist so, if parents are not working, something else may be going on.

When the Minister responds, I hope that he will address these probing amendments by talking about individual cases. He has talked a lot about how he wants to move to a much more personalised situation so that advisers can engage with individuals and understand that their circumstances differ, yet this measure feels like a very blunt tool, indeed. Therefore, could he tell us a little more about what it might mean in practice?

The Lord Bishop of Southwark: My Lords, I rise to express my support for the intention behind the amendment in the name of the noble Earl, Lord Listowel, which makes sound social and economic sense. If a child can be cared for within the family network, and that is not to be parents or step-parents, that is in most cases preferable for the emotional, physical and spiritual well-being of the child. Churches have watched and participated for centuries in the patterns of such relationships and know that while they can hide dangers, they provide in the main the best setting for the formation of life. Better that than the anxiety, grief and hardship imposed by benefit rules not designed for such scenarios, and that a proportion of such children be an economic charge on local authorities and reap the emotional deficit that will all too often occur.

We have heard that there are an estimated 200,000 children raised by kinship carers across the UK. Some 50% are grandparents and a little under a quarter are siblings bringing up younger brothers and sisters. If 95% of children living in kinship care arrangements are not looked after by the local authority, can we imagine what the cost would be if there were any sort of shift in that figure—yet we expect the carer to bear that cost? It is a cost often undertaken at short notice and in an emergency. Kinship carers face significant additional costs in terms of both equipment needed and maintenance costs. Their family size increases and can even double overnight. Unlike adopters, they are not entitled to a period of paid leave for the children to settle in. The largest survey of kinship carers in the UK, conducted by the Kinship Care Alliance, found that 49% of respondents had to give up work permanently as a result of taking on the kin children, a further 18% had to give up work temporarily, and 23% had to reduce their hours temporarily or permanently. In many cases, this plunged the household into poverty and debt. One grandmother carer responding to the survey said:

"We are struggling to buy food and pay our bills. We have to get food vouchers every three months".

The Kinship Care Alliance survey found that 30% of kinship carers' households were currently receiving housing benefit. The figure rose to 36% among larger kinship care households with three or more children—kinship care households such as that headed by Rachel, a grandmother in her 50s who lives near my diocese in south London. She took on the care of her three young grandchildren when her daughter died in a car accident last year. The children's father is in prison. She has had to give up work to raise the oldest grandson, who is six years old and her two youngest granddaughters, who are three and one years old. She is also grieving the loss of her daughter, just as the children are grieving the loss of their mother.

I would be grateful to the Minister if he could tell me whether the Department for Work and Pensions has undertaken an assessment of the likely impact of this measure on kinship care households and, if so, whether he could provide the detailed figures. Furthermore, if the Government do not favour this amendment, will they bring forward their own amendment to address the points I have raised? Is the Minister not concerned—as I am—that the numbers in care may rise if action is not taken?

Many of the children arrive to live with kinship carers following a crisis and are deeply traumatised. Many have severe needs and some have suffered prior abuse. The survey to which I have referred found that kinship carers reported that a staggering 43% of the children had emotional and behavioural problems. Forcing carers into work cannot always be a just and appropriate response.

[The Lord Bishop of Southwark]

The right reverend Prelate the Bishop of Portsmouth, who spoke earlier in these debates, dearly wished that he could have spoken today, and I pay tribute to his endeavours in this regard. I welcome the focus of the Government's own family test on stable and strong family relationships and the explicit reference to kinship carers in the test. This amendment is entirely consistent with the application of the family test and I hope that the Minister will accept it.

Baroness Drake (Lab): My Lords, I, too, support Amendment 90B, which seeks to exclude kinship carers from the benefit cap. The amendment is, indeed, a logical extension of our discussion on the first day of Committee on kinship carers and their exemption from the two-child limit. To reiterate, care proceedings cost an average of £25,000 and foster care £40,000 a year, yet most kinship care arrangements can be fixed without recourse to the courts, with dramatic savings to the public purse as well as significantly improving outcomes for the children. However, much of the financial cost of raising the child typically falls directly on the carers themselves.

When we discussed this issue on 7 December, I found the Minister's response on kinship care profoundly worrying. He was pressed on his failure to acknowledge that a family taking in other people's children is not doing so through some concept of voluntary freedom of choice, as normally understood, but is choosing to take on the responsibility of vulnerable children rather than abandon them. The Minister responded:

"Clearly there is a difference between the voluntary and involuntary taking on of children, whether they are your own or anyone else's. That is what our exemptions are for. We are seeking to try to draw the line between where it is involuntary, as in the case of rape, and where it is not".—[*Official Report*, 7/12/15; col. 1332.]

That statement shocked many in this House because in effect the Minister was saying that if a kinship carer takes on responsibility for vulnerable and distressed children, that decision is voluntary and therefore not worthy of state support if it means that there are more than two children in the household. I find that reasoning quite extraordinary and, indeed, quite dreadful.

6.30 pm

I have two questions for the Minister on this issue. First, does he accept that taking in vulnerable children because their parents have died or are unable to take care of them is not what most people would call a voluntary choice? Secondly, he reminded us on the first day of Committee that the Government had agreed during the passage of the Welfare Reform Act 2012 to make a distinction in the treatment of kinship carers in relation to conditionality for those claiming universal credit, so that, as he put it,

"kinship carers will have to attend periodic interviews only for the first year after a child joins their household, which enables the carer to focus on helping the child through this difficult period".—[*Official Report*, 7/12/15; col. 1329.]

Given that, can he explain why kinship carers who find themselves subject to the benefit cap and could escape it only by working 16 hours a week should not now focus on helping the child through this difficult period?

The reasons for exempting kinship carers from the benefit cap are persuasive and have already been put in some detail so I will not risk too much repetition. The vast majority of them have to either give up work permanently or temporarily or reduce their hours to look after what is often a traumatised child, and at the requirement of the social worker, while indeed meeting both equipment and maintenance costs. Some 76% of kinship carers are in deprived households in receipt of housing benefit so the lower benefit cap is likely to particularly affect families in London, which has one of the highest rates of kinship care of children, in view of the very high housing costs, as the noble Earl, Lord Listowel, identified. I ask the Minister: how many kinship carers do the Government estimate will be affected by the benefit cap in London and outside it?

My noble friend Lady Sherlock reminded us again of the very confusing reference in the impact assessment to the "behavioural response" that is being sought by the benefit cap and the average reduction of £63 a week for people who do not make the appropriate behavioural response. In effect, this is a punishment of kinship carers for taking on the responsibility of vulnerable children, because they have not made the correct behavioural response. Presumably, under the logic of the way in which the benefit cap is operating, taking on the care of the child is not an appropriate behavioural response.

The reduced benefits resulting from the lower benefit cap could jeopardise existing kinship care arrangements, deter potential kinship carers and work against the child's best interests—and, indeed, increase the cost to the Government if more children go into the care system rather than stay with kinship carers. But the impact assessment provides little or no assessment of these effects or the deterrent effect on kinship carers. State expenditure simply trumps the interests of these children and their kinship families, even though that reduction in state expenditure would not be delivered at all—let alone the interests of the child protected—if more children went into the care system because of the deterrent effect on kinship carers. The case for exempting kinship carers from the benefit cap is quite compelling.

Lord Freud: My Lords, Amendments 75, 78, 80, 81 and 83 seek to exempt specified benefits from the list of those that are included within the cap or to exclude those benefits in the same way that pensioner benefits are. These amendments undermine the fundamental principle we established when we introduced the cap: there has to be a clear limit to the amount of benefits that an out-of-work family can receive. This is a principle that has gained very broad support across the country.

Turning to the specific proposals, after my intervention on the noble Baroness, Lady Pitkeathley, on the carer's allowance, I re-emphasise that the Government recognise the valuable contribution that carers make, and I will come back to that issue. Amendment 78 also exempts all those claiming employment and support allowance. Those in the support group are already exempt. But the benefit cap is a work incentive. Those in the WRAG have been assessed as being able to undertake some work-related activity, with a view to moving into employment in the short to medium term, and therefore we believe it is right that the cap be applied to these people.

The same principle applies to those in receipt of IB and SDA together. The recipients of these benefits will not necessarily be unable to undertake any work-related activity, but we are reassessing them for ESA and those who are found to be entitled to the support component will become exempt from the cap. Income support is a benefit paid to claimants in an extremely wide range of circumstances. It is an income-replacement benefit and as such, it is appropriate that, like the other income-replacement benefits, it is included in the cap.

The cap increases work incentives and promotes fairness by limiting the amount that those out of work can receive in benefits. I do not think that a blanket exemption from the cap for simply everybody in receipt of income support would support either of those aims. The vast majority of capped households that have found work include parents who have managed to balance their caring responsibilities with work—as millions of working households already do up and down the country. By going out to work, parents show their children the importance of a strong work ethic and reinforce the message that work is the best route out of poverty.

Before turning to Amendments 87 to 90B, I remind noble Lords of the exemption from the cap for anyone who is a member of a household that includes somebody who is ill or disabled and is entitled to attendance allowance, DLA, PIP, industrial injuries benefits or the armed forces independence payment. Additionally, as well as war widows and widowers, those who are entitled to the support component of ESA or universal credit's limited capability for work or work-related activity element are exempt.

In recognition of the work incentive objective of the cap, households that are entitled to working tax credit or meet the prescribed earnings threshold for universal credit are also exempt from the cap. I have already mentioned the nine-month grace period from the cap for households that have recently left sustained employment. We have committed £800 million, as I have already said, for discretionary housing payments over the next five years to provide extra support for households that may be affected by the cap, within the context of that £800 million being for all the welfare reforms. I hope that noble Lords are assured that, combined with the additional funds that we have allocated for DHPs, there are already numerous safeguards in the design of the cap which protect the most vulnerable, as well as those with a strong work history.

I have already said that I will come back on Amendment 87. Amendment 88 would exempt from the cap all those in receipt of universal credit who are not subject to all work-related requirements. There is already an exemption, as I have said, for those who have limited capability for work or work-related activity. But this amendment would extend the exemption far more widely, including to those subject to work-focused interviews and work preparation requirements, many of whom will have a relationship with their work coach focusing on what they can do to prepare positively for a return to work.

Amendment 89 also seeks to exempts all those on ESA. I will not repeat the particular arguments but will add that there is a large body of evidence showing that work is generally good for physical and mental well-being and that where their health condition permits, sick and disabled people should be encouraged and supported to remain in or re-enter work as soon as possible. I am encouraged that the noble Lord, Lord McKenzie, was happy to acknowledge that point a couple of weeks ago.

Amendment 90 would also introduce an exemption for all those in receipt of income support. Again, that is an extremely wide range of circumstances.

Baroness Hollis of Heigham: I accept the point about income support covering a wide category of claimants, and I know that we will come on to this later, but is the noble Lord willing to reconsider his position on attaching a benefit cap to people from whom work is not expected by virtue of, say, the age of their child?

Lord Freud: I have already answered that question in the first of these amendment groupings. I repeat: there is a difference between having a state expectation—and conditionality attached—for people to go to work, and a financial incentive for them to do so.

The noble Baroness, Lady Sherlock, asked whether responsible carers would be set requirements that they cannot meet. We will ensure that any work-related requirements will be tailored to individual circumstances and compatible with childcare responsibilities.

I turn to the amendment tabled by the noble Earl, Lord Listowel, on kinship carers. The Government recognise the service that kinship carers and others provide, and the Bill continues the current provisions for foster carers, kinship carers, and family and friend carers. If they, or a child for whom they are caring, are in receipt of an exempt benefit the cap will not apply. In addition, any payments received from the local authority for providing care will be disregarded from the benefit cap. Finally, there is a nine-month grace period whereby the cap may not be applied to those who have recently left sustained employment. This will give time for kinship carers who may have had to leave employment to take on additional caring responsibilities to adapt to their new circumstances. Family and friend carers are treated in the same way as parents in the benefit system, so it is only fair to ensure that this principle applies to the application of the cap, too. The benefit cap is intended to promote fairness between those in and out of work, and to increase incentives for people to move into work—principles that I believe apply in the same way for family and friends carers as for parents.

Regrettably, I am not in a position to supply the specific data requested by the noble Baroness, Lady Drake, on what is happening in London. As I said, I will come back to the matter of carers at a later date but I cannot support the other amendments and I ask noble Lords to withdraw or not press them.

Baroness Meacher: My Lords, I thank all noble Lords who have spoken very powerfully in support of these incredibly reasonable amendments. My understanding is that what we are all about is seeking that the cap does not apply where it is completely inappropriate and unfair to expect that person to

[Baroness Meacher]
work. In the case of kinship carers as well as other carers, the impact on the disabled child or relatives is likely to be extremely serious. The impact on the Exchequer or the taxpayer is also likely to be extremely costly.

I thank the Minister for informing the House that Ministers will be returning to the issue of carers, but surely the arguments of the High Court and the judge in relation to carers in general apply equally to kinship carers. I cannot see any possible argument that they do not—they just have to—so I ask the Minister to take away that point and consider the relevance of the High Court judgment and comments on kinship carers, and the need for some consistency. I also ask him to think further about the importance of people who cannot work for whatever reason, whether they have a one year-old child or are disabled to such an extent that they simply will not get better. Those people should be exempt from the cap and I ask the Minister not just to put that issue away and think "Job done", but to think seriously and say, "Now hang on—surely we should be doing something about this".

6.45 pm

The Minister said to me when we met to discuss this issue that the trouble is that, if he makes concessions on A, he will have to take some money from B. There is an opportunity to save billions if only the Government would invest in housing on the green belt—green areas within the M25 and areas around other urban conurbations. If the rents and costs of properties were controlled in that way, the housing benefit bill would really drop. Billions could be saved in that way without affecting very poor people. When the Government say that this is "just one of those things" and that it is necessary, I am sorry but I do not accept that. I ask the Minister to convey that point to his ministerial and other colleagues in the housing department, and on that basis I am happy to withdraw the amendment.

Amendment 75 withdrawn.

Amendment 76

Moved by ***Baroness Sherlock***

76: Clause 7, page 9, leave out lines 3 and 4

Baroness Sherlock: My Lords, I shall also speak to Amendments 77, 79, 82, 84 and 85, which are in my name and that of my noble friend Lord McKenzie of Luton. These amendments would exclude a series of benefits from the cap which relate to families with children, and I want to say a brief word about each of them. Once again, we have tabled these as probing amendments and I therefore encourage the Minister not simply to say yes or even no. If he said yes, I would obviously fall over in shock. I am trying to use these amendments as a vehicle to get him to explain more carefully to the House what he expects people affected by the cap to do to avoid it. That is all I am asking for here, so I encourage him to respond in that vein.

Amendment 76 would exclude child benefit from the cap and Amendment 77 would exclude child tax credit. Just to be clear, the Minister mentioned in the last group that he feels that all income replacement benefits should be included. Those are specifically not income replacement benefits but extra-cost benefits. Child benefit has traditionally been a universal benefit—it is still available to all but the highest-tax bracket households—and it is designed to be the classic extra-cost benefit. It is a horizontal transfer from taxpayers as a whole to households with children, out of a recognition that children are a public as well as a private good and therefore we should all share in the costs of raising them. The parents pay the lion's share but we all make a contribution because it is in all our interests to raise children who are happy and healthy, and who will be the next generation paying for the rest of us. Why are they therefore excluded?

Amendment 79 would exclude guardian's allowance from the cap. You can claim guardian's allowance only if you are caring for somebody else's children because their parents have died, or because one has died and the other cannot look after them because, for example, they have gone missing or are in prison. What behavioural incentives are the Government seeking by including guardian's allowance in the cap?

Amendment 82 would exclude maternity allowance from the cap. Maternity allowance is available only to those who are in work but cannot get statutory maternity pay. It enables the woman to take paid maternity leave. The Minister may mention the grace period but that applies only to people who have been in work for the last year at the point when they make an application for benefit, and that may not apply to everybody in this circumstance. Suppose that a woman finds that she hits the cap because her household benefits rise as a result of her maternity allowance. What is she to do? Let us say that she is single or that her partner is unable to work. What behavioural response does the Minister want? The two things that have traditionally been suggested are to work or to move house. Is she to work when she has a job but is going on maternity leave? Is she to move house when she is about to give birth? Neither of these seems an obvious response, although I may have missed something, and I very much hope that I have. I raised this at Second Reading or some other point during discussions on the Welfare Reform Bill in 2012, because I remember at the time I could not really believe that the Government genuinely meant to include a maternity benefit in the cap, when the way you got out of it was by working. However, I very much hope I have missed something and look forward to the Minister explaining that one.

Finally, Amendments 84 and 85 would exclude from the cap widowed mother's allowance and widowed parent's allowance, which are paid only to widows below state pension age who have dependent children. Those are contributory benefits, eligibility for which depends on the contribution record of the late spouse. I would be interested to hear the Minister's reasons for including those benefits in the cap.

The impact of this on children will be quite significant. To date, more than twice as many children have been hit by the cap as adults. Children are disproportionately affected by the benefit cap, and 63% of households capped to date contain a child under five. Reducing the cap means that some families simply will not have enough income to manage. Even if they manage some weeks, there will come a time when their budgeting gets thrown off course; for example, when a winter

heating bill comes in, both kids have a growth spurt, a child moves to secondary school and needs a new uniform, or the fridge breaks down. With access to hardship payments much reduced, and unable to repay loans or catalogue payments, parents will build up debts and miss rent payments simply to feed the kids and buy essential items. If the Government are going to cut benefits to families with children unless their parents take certain specified actions, the very least they can do is explain to us what those actions are and what they expect them to do about it.

Baroness Lister of Burtersett: My Lords, I rise to speak in support of Amendments 76 and 77, to which I have added my name. I apologise that we will be going over some of the issues raised in the first group of amendments, particularly by my noble friend Lady Hollis, but they are crucial because they go to the nub of some of the disputes among us as to what is fair and what is not.

The amendments follow on from my Amendment 93, discussed earlier, which was designed to safeguard and promote the welfare of children. In speaking to that amendment, I referred to Lord Carnwath's judgment in the recent Supreme Court case on the cap, in which he made the point that the inclusion of child benefit and child tax credits in the cap raises,

"questions why the viability of a scheme, whose avowed purpose is directed at the parents not their children, is so disproportionately dependent on child related benefits".

He also said:

"The cap has the effect that for the first time some children will lose these benefits, for reasons which have nothing to do with their own needs, but are related solely to the circumstances of their parents".

This takes us to one of the "policy objectives" or "intended effects" listed in the impact assessment, namely to:

"Promote even greater fairness between those on out of work benefits and tax payers in employment (who largely support the current benefit cap), whist providing support to the most vulnerable".

The "most vulnerable" are not defined, but in the impact assessment on the benefits freeze, the term is qualified with the phrase,

"who are least able to increase their incomes through work".

Surely children fall into that category. Yet the justification for the way the cap is constructed and for the reduction in its level ignores this and, as Lord Carnwath observed, takes no account of children's needs, relating instead solely to the circumstances of their parents. Moreover, it is worth repeating the observation of the noble and learned Baroness, Lady Hale:

"The children affected suffer from a situation which is none of their making and which they themselves can do nothing about".

My noble friend Lady Hollis made the point that it is not a level playing field here—a horrible sporting metaphor—and that we are not comparing like with like when we compare in-work earnings with out-of-work incomes, although I will not go into more detail on that. I tried to find out by way of a Written Question how much the so-called hard-working families we hear so much about were likely to be receiving in benefits. This time the response I received rehashed the latest government mantra of their commitment to,

"a higher wage, lower tax, lower welfare economy",

and referred me to the HM Revenue & Customs website. I enlisted the help of the Library to see whether it could elicit the answer from the website, but—surprise, surprise—it could not. In effect, a government Minister—in this case, the noble Lord, Lord O'Neill of Gatley—was encouraging me to waste my time by sending me to a website that would not supply me with the answer to the questions I was posing. Given that the Government were able to supply similar figures in answer to a Written Question during the passage of the Welfare Reform Bill in 2012, it is surely possible, and beneath the disproportionate cost threshold, to do so again now. I fear that, increasingly, government departments simply cannot be bothered to answer our completely legitimate questions, thereby ignoring their responsibility for parliamentary accountability.

Similarly, I tabled a Question to find out what the impact would be in terms of the total number of households capped, the number of children affected and the cost to the public purse, if children benefit and child tax credit were excluded from the cap. Once more, I was referred by the Minister to the impact assessment, as if that contained the answer. Yet again, such information was made available during the passage of the Bill in 2012, showing that nearly half the savings from the cap were being made as a result of the inclusion of children's benefits: in other words, nearly half the savings were being made on the basis of a blatant piece of unfairness that drives a coach and horses through the Government's claim to be creating that beloved level playing field between families in and out of paid work, giving rise to Lord Carnwath's query about why the policy's viability is so disproportionately dependent on child-related benefits when its avowed purpose is directed at the parents not the children. It is clear from the evaluation of the existing cap that one consequence is likely to be even greater arrears and debt, thereby aggravating what the Government themselves consider to be a root cause of child poverty.

On our first day, there was broad agreement among noble Lords who spoke that the two-child policy does not meet the Government's own family test. Although it might not be quite so blatant here, I believe the same applies to the inclusion of children's benefits in the children's cap. Although the impact assessment for the cap is much more thorough than that for the two-child policy, I could not see any reference to the family test having been applied. Could the Minister confirm that it was applied and could he undertake to publish the documentation?

When we last discussed this issue, during the passage of what became the 2012 Act, as we have already heard, there was strong support in your Lordships' House, under the leadership of the right reverend Prelate the Bishop of Ripon and Leeds, for excluding children's benefits from the cap. I very much hope that that support will be there again now, because with a reduction in the level of the cap to an arbitrary two-tiered level below median earnings, the case for exclusion is stronger than ever.

Lord Freud: My Lords, this group of amendments seeks to exclude specified benefits payable for children and widowed parents from the list of those included within the cap. As I mentioned in relation to the other

[LORD FREUD]
amendments, these amendments would undermine the fundamental principle that was established when the benefit cap was introduced: that there has to be a clear limit to the amount of benefits that a family can receive. That is a principle that has gained very broad support across the country and indeed from the Opposition.

The benefit cap is one part of our suite of welfare reforms which are restoring work incentives and fairness to the benefits system. That previous system was not fair on working taxpayers; nor was it fair on claimants, trapped in a life where it was more worth while claiming benefits than working. Our welfare reforms are about moving from dependence to independence, and the benefit cap is helping people take that important step into work.

We have always accepted that there should be some exemptions from the benefit cap. To incentivise work, the cap does not apply to those households in receipt of working tax credit, which, for lone parents, requires 16 hours of work a week. To recognise the extra costs that disability can bring, households which include a member who is in receipt of AA, DLA, PIP or Armed Forces independence payment are exempt. Those who have limited capability for work and are in receipt of the support component of ESA or the equivalent in universal credit are exempt. War widows and widowers are also exempt.

7 pm

As I have already mentioned, to further emphasise the work incentive and fairness principles of the cap, we have also provided for a nine-month grace period for those who have recently left sustained employment. I am very grateful to the noble Lord, Lord Best, who is not in his place, for the idea.

We must not forget that our welfare reforms are about transforming life chances as well as promoting fairness for those families who are in work. I cannot see why we would want to exclude all specified benefits payable for children and widowed parents from the cap, as would be the result if the amendments were passed. Like other welfare benefits, child-related benefits are provided by and funded by the state. It is therefore right that they are taken into account along with the other state benefits when applying the cap. Those cap levels are not insignificant, being equivalent to annual pre-tax incomes of £25,000 and £29,000. Removing these benefits from the cap would effectively mean there would be no upper limit on the amount of benefits that out-of-work households could receive.

The noble Baroness, Lady Sherlock, asked what I expected people to do to avoid the cap. Millions of households are balancing their caring responsibilities with work, and since the cap was introduced in April 2013, nearly 9,400 capped lone parents have moved into work and claimed working tax credits, joining the 1.25 million lone parents in employment in the UK. By going out to work, parents show their children the importance of a strong work ethic and reinforce the message that work is the best route out of poverty, while improving their longer-term life chances.

The Government have a strong record on providing support for children; parents receive support to help with the costs of childcare, which is being extended further to help working parents. To support those with younger families, the childcare offer is increasing to provide 30 hours of free childcare per week.

Two of the benefits that noble Lords are seeking to exclude from the cap are the widowed mother's allowance and the widowed parent's allowance. I acknowledge the important part that these benefits play in supporting widows and widowers in the months following bereavement. The death of a spouse or civil partner is a life-changing event, emotionally, socially and economically, and there is an important role for the Government to play in providing some relief from the financial pressures in the short term to support people while they adjust. However, the Government should, at the right time, encourage claimants receiving bereavement benefits, who are without employment, into a supported return to work. Noble Lords will recall that, following a public consultation in 2012, we will be replacing the current suite of bereavement benefits in April 2017 with a new bereavement support payment which will focus on the financial support in the period immediately after bereavement by paying an initial lump sum, followed by 12 monthly instalments.

The noble Baroness, Lady Sherlock, asked why maternity allowance was to be included. Recipients of maternity allowance and guardian's allowance will be affected by the benefit cap only if they are in receipt of a significant amount of other welfare payments. If the claimant or their partner has worked for 50 out of the 52 weeks prior to becoming unemployed, the household will be awarded a 39-week grace period before the cap will be applied. Clearly, we have the discretionary housing payment system to support those in the short term while they adjust.

I urge the noble Baroness to withdraw the amendment.

Baroness Lister of Burtersett: I am very sorry to intervene. I may have missed it, but I do not think that the Minister addressed my argument, also made by my noble friend Lady Hollis, about the fact that the comparator families in work will be receiving child benefit and almost certainly child tax credit, so why are they being included in the cap as we are not comparing like with like? I also asked a specific question about the application of the family test, to which the noble Lord did not give an answer.

Lord Freud: We did apply the family test; I had better write to the noble Baroness with the details because I cannot recall what was in it. There was quite a lot of material going through in a short time.

I think that I have now dealt twice with the fact that we are looking at earnings and we are not making that comparison, even though I know that neither the noble Baroness, Lady Lister, nor the noble Baroness, Lady Hollis, like the answer. That is my answer—I do not have another answer, however much I am asked.

Baroness Hollis of Heigham: Forgive me, my Lords, but an assertion is not an explanation. What we are getting is an assertion from the Minister: "I am not going to compare income and income, just income with earnings, and additional income for that person on earnings which comes from benefit will not be taken into account. Why? Because I say so".

The Government are running two arguments, over and beyond the repeated headline stuff. One is about work incentives—people are expected to move into work by virtue of this Bill. The second is the question of fairness between those currently in work and those out of work on benefit. I understand why the Minister is making these arguments, but on neither does he have a case, nor has he made one. He has simply made assertions.

On excluding people, rightly, from the support group, the Minister is still not explaining, but merely asserting: a lone parent with a child of one or two may have the choice to work; the Government do not expect them to work; most people would not necessarily want them to work; none the less, the cap will apply. When it comes to carers, a pause button has been pressed.

On the Minister's second argument, over and beyond the work incentive whereby he is comparing those in work and those out of work, he is disregarding a chunk of people's in-work income, which is in addition to those earnings. Why? Because he says so. The incentive into work does not apply to some of the groups we have been discussing. On the fairness between in-work and out-of-work income, the Minister has not included part of the income which would establish a reasonable basis of comparison.

What does the Minister expect us to do? He is asserting things without giving us any evidence and not engaging in the argument. His two assertions—this is why he is doing what he is doing—are not substantiated by any evidence or argument that he has offered. I am sorry, but this will not do. It is not good enough. The Committee is owed more from the noble Lord than we are getting.

Lord Freud: I have done my best to lay out that this is based on equivalent pre-tax incomes of £25,000 and, in London, £29,000. The comparable earnings figure is roughly at the level of four in 10. But I cannot produce any more information or justification—I cannot give what I have not got. I am afraid that that is what I am able to provide today.

Baroness Hollis of Heigham: I do not want to be discourteous to the Minister. He is much respected in the House, and many of us engaged with him in a very satisfactory way on universal credit. He took suggestions away, he listened, he argued, he produced new evidence which made some opposition Members change their mind. We have every respect for the fact that, as a Minister, the noble Lord is genuinely evidence based—except on this. He has produced no evidence.

What puzzles me is that the Minister has not asked for the evidence to substantiate his two drivers about getting people into work and having fairness between in-work and out-of-work claimants. We know from experience that the noble Lord respects evidence and offers it to us. He has come to the Committee, after Second Reading and three Committee sittings, knowing that we will be looking for evidence to sustain his position—and if he has it, we will respect it—but he has not come forward with it; he has simply repeated assertions. Either the evidence is not there, in which case the assertions have no substance, or the evidence is there but is not being shared with us, which suggests a level of bad faith that I do not in any way attribute to the Minister. So where are we?

Lord Freud: I will try one last time. If noble Lords are dissatisfied, that is the reality.

We currently have a benefit cap in operation at a single rate of £26,000, and we are taking that down. That has mainly affected London. We are now spreading it out to affect just short of 100,000 people—90,000-odd on the impact assessment, although it is interesting that, in 2012, a smaller number were involved in practice than in our original impact assessment, so let us just see.

Our experience of running that benefit cap and the reaction to it were such that the Government decided that we could safely reduce the level and put it into two tiers, so that its impact is spread through the country more evenly. We have taken it down by 12.5%. It is the experience of running it live that has led the Government to think that we could move it to these levels and get the incentive effects that we are looking for to operate. I do not have any more information to provide for the noble Baroness—much though I know that she would like more. I apologise to the extent that she is disappointed.

Baroness Sherlock: My Lords, I thank the Minister for trying, if not succeeding, to answer the questions. He must appreciate that we had some very good discussions during the passage of the Welfare Reform Act, which brought in the cap in the first place. One reason that they were good was because a lot of evidence was around. He was asked some searching questions from Peers from all Benches, he engaged with the argument, we had some good debates and I would like to think that the system that we now have in universal credit is better than it would have been had it not been for them. In fact, I think he was kind enough to say so at the time.

One reason why I have always enjoyed participating in debates in this House in this area is precisely because we have been able not just to trade in political slogans but get into detail and understand how we might improve current policy—which is the whole purpose of this Chamber as a revising Chamber.

Lord Freud: I say only that I remember with some fondness—not entire fondness, because 17 Sittings in Committee is too much for anyone—that we had some very valuable dialogues then. One of the most important was about universal credit and led directly to the creation of universal support, which is becoming a valuable tool that we are developing. I remember equally vividly that the benefit cap area was one where at least equivalent frustration was expressed by noble Lords about what I was saying. I remember that very distinctly. There were some very punchy discussions. I will say no more than that, but it was not an area where we had the most sweetness and light on that Bill.

Baroness Sherlock: I thank the Minister for reminding me of that joyous period; I think of it often.

[Baroness Sherlock]

The Minister mentioned that a lone parent could avoid the cap by going into work for 16 hours on working tax credit. He did not pick up the point that I made on the previous amendment, which was that, on universal credit, he always said that lone parents would be expected to work only if they could find a suitable job where they could get childcare. He has not responded to the fact that a lone parent with a baby would have to go to work. The offer of childcare for three and four year-olds does not apply to babies. The offer of childcare for disadvantaged two year-olds does not apply all year round. There is a real issue. Someone might find that the only response was to take jobs which either might not be available or for which they could not find suitable childcare.

I am sorry to say that I did not find the Minister's response on maternity allowance persuasive at all. I think this is one of these oddities, and I think the Government just got it wrong and should have just put their hands up. These are generally probing amendments, but I think that that is just genuinely bizarre. The impact assessment says that, if people do the right thing and move into work, they will not be capped. How is it possible for a woman who is about to give birth to do the right thing and move into work? That just does not work. However, I fully accept that I am not getting any more than I have.

Finally, during Committee, my noble friend Lady Lister has given two or three examples of Written Questions that she has asked, the Answers to which have been, frankly, unsatisfactory. They have mostly referred her to another document or website in which the answer was not found—as she has established with the help of the Library. That is a very bad trend in which legitimate questions are being asked for information which would help to inform deliberations in Committee on a Bill, but the department, via its Minister, is not providing them. We will keep a close watch on this and, if it comes up again, we will raise it again on the Floor of this House.

In the mean time, I beg leave to withdraw the amendment.

Amendment 76 withdrawn.

Amendments 77 to 90B not moved.

Amendment 91 had been withdrawn from the Marshalled List.

Clause 7 agreed.

7.15 pm

Clause 8: Review of benefit cap

Amendments 92 to 94 not moved.

Clause 8 agreed.

Clause 9: Freeze of certain social security benefits for four tax years

Amendment 95

Moved by ***Baroness Sherlock***

95: Page 11, line 30, leave out from "to" to end of line 31 and insert "be reviewed annually by the Secretary of State having given regard to—

"(a) the rate of inflation, and

(b) the national economic situation."

Baroness Sherlock: My Lords, a change of subject. I am pleased to say that these amendments are not about the benefit cap. Amendments 95 and 102 are in my name and that of my noble friend Lord McKenzie of Luton, and Amendment 100 is in our names and that of my noble friend Lady Lister.

Clauses 9 and 10 provide for the freezing of certain working-age benefits for a period of four years until 2019-20. This is estimated to save the Government £3.5 billion in 2019-20 when compared to an uprating by CPI. The benefits and tax credits included in the freeze are the main working-age components of income support, jobseeker's allowance, ESA, housing benefit and ESA WRAG, together with the key elements of working tax credit and the individual element of child tax credit, universal credit and child benefit. It does not extend to disability premiums, allowances for caring responsibilities or pension benefits.

Amendment 95 would displace the automatic freezing of those items and require a review to take into account inflation and the national economic situation. Amendment 100 would have the same effect for child benefit, and Amendment 102 for the otherwise frozen elements of universal credit.

Clearly, even if they were accepted, such amendments would not preclude the various rates remaining unchanged, but they would require some consideration of their real value and the capacity for the economy to share more fully the benefits of growth. It would give the Government the opportunity to think again in the light of changing—the Government would doubtless argue, improving—economic circumstances.

A bit of a pattern has been developing here. Previously, the retail prices index was used for uprating. Then Ministers robustly argued that CPI was the right measure. Then, in 2013, they decided to limit increases to 1% as a temporary measure. Now, whatever happens to inflation, they will not uprate benefits and tax credits for the rest of this Parliament. First RPI, then CPI, then 1% and now 0%.

Our major concern with the way that this freeze is being done is that it both cuts the link between prices and earnings and widens the gap between the income of the poorest and the living standards of the mainstream of society. It uncouples eligibility for support from need, a feature also of changes to the benefit cap and the local housing allowance.

We have been living in fairly benign inflationary times, with CPI expected to rise from 0% in quarter 3 of 2015 to near the Bank of England target of 2% by the second half of 2017—although the components of

CPI do not necessarily reflect the basket of costs which most impact poorer households. We know that GDP growth is projected by the OBR to be between 2.3% and 2.4% through to 2020.

In considering these matters, we must have some regard to the financial resilience of households and their ability to cope with what will be a sustained real-terms reduction in their resources between now and the end of the Parliament. If we look at the tax and benefit changes under the coalition Government, we see that austerity was used to introduce net tax rises of £13.6 billion and net benefit cuts of £16.6 billion, including pension increases of £5 billion. The IFS analysis shows that, in terms of changes to income, the poorest two deciles did the worst over that period, with working-age households with children particularly hit. The End Child Poverty Alliance reminds us that some 4.1 million families and 7.7 million children have already been affected by below-inflation rises over the last three years. Ministers will doubtless point to the Government's manifesto commitment to freeze benefits, but I hope that the Minister will acknowledge that that commitment covered only a two-year period, not the four-year period that the Bill proposes.

I am really interested in process. We have a long tradition according to which Ministers are required to assess what people need to live on before coming to Parliament annually to propose what should happen to the levels of benefits and tax credits. Sometimes in this House there is just the noble Lord, Lord Kirkwood, and me in the Moses Room, along with the Minister; but the point is that we got to test the Government's case before decisions were taken affecting the lives of millions of our citizens. I therefore have two questions to ask the Minister. First, what assessment are the Government making to ensure that there is some link between benefits and tax credits and what a family needs to live on? Secondly, will the Minister assure the Committee and the country that once this Parliament is over, it is the intention of the Government to return to linking the level of benefits and tax credits with inflation and to the practice of Ministers being accountable annually to Parliament for those decisions? I beg to move.

Baroness Lister of Burtersett: My Lords, I will speak in support of all of the amendments in this grouping. The only reason that my name is not on the first one is that I did not spot it in the Marshalled List. The four-year freeze in most working-age benefits represents the largest of the many cuts in the Bill. Conveniently for the Government, it is an invisible cut; gradually people will find that the benefit that they rely on is able to buy less and less, but they will probably blame the cost of living, not realising that it is the result of deliberate government policy. As the Joseph Rowntree Foundation study commented a few years ago, upgrading policies have big effects over time:

"They are among the most significant decisions taken by Chancellors … Their gradual effects seem imperceptible on a year-to-year basis, yet they carry immense implications for the future".

So let us not underestimate the significance of Clauses 9 and 10.

Benefits have already been cut in real terms due both to below-inflation increases and to the switch to the use of the CPI rather than the RPI. Moreover, as the latest JRF *Monitoring Poverty and Social Exclusion* report points out, essentials have risen faster than the average price index in recent years. Since low-income families spend proportionately more on essentials,

"low-income families have in effect experienced a higher rate of inflation than other families",

meaning that their benefits have been able to buy even less than before.

This latest cut in real value has been described by the IFS as,

"highly regressive, with the bottom three deciles losing most",

which is hardly surprising. If any noble Lord suggests that benefits are adequate, and that therefore those reliant on them can afford to take such a cut, I suggest that they try living on benefits—not for a week as a benefit tourist, but for months without savings or the kind of stocks that we all take for granted.

The briefing note that we were given spells out two main objects as the policy's rationale, the first being to deliver savings to contribute to deficit reduction,

"while maintaining support for the most vulnerable".

To be more accurate, it should say "some of the most vulnerable" since, for instance, children's and some disability-related benefits will not be protected, as the EHRC points out. Nor does it protect protected groups, with women and black and minority-ethnic groups disproportionately affected. Whatever one thinks of the primacy given to deficit reduction—and eminent commentators such as Martin Wolf of the *Financial Times* question it and the extent to which it is to be achieved by spending cuts—it is a political choice to make those with the narrowest shoulders bear so much of the burden, particularly when others have enjoyed tax cuts. These, as it happens, were, in effect, paid for by benefit cuts under the coalition Government, according to CASE at the LSE.

As my noble friend Lady Hollis has pointed out in previous discussions, it is a myth that social security spending is out of control. As the OBR analysis shows, over the past 30 years, the real increase in spending has been broadly in line with growth in the economy, so there has been no significant change in the proportion of national income devoted to social security spending. The largest contribution to the increase in spending since 2008 has been the rise in the real value of pensions.

The other main objective given is to,

"help to reverse the trend where earnings growth has been slower than the growth in benefit rates".

However, this is a very recent trend. Professor Jonathan Bradshaw has used the DWP abstract of statistics to show that the adult rate of unemployment benefit was worth 21% of average earnings in 1972, the earliest date for which there are consistent data. By 2008, the JSA rate had fallen to 10.5%, half of what it was in 1972. It is true that the short-term trend, to which the Government refer, means that it has increased slightly now to 11.7%, but now that wages are expected to start rising again it will no doubt fall back again, even without this freeze.

[Baroness Lister of Burtersett]

The other justification given in the impact assessment is, once again, that it will increase work incentives. It is worth pointing out that some of the benefits affected are paid to those in work in any case, a point to which I will return in the next grouping. As the famous OECD quote used by the Government to justify ESA for new WRAG claimants made clear, work incentives can be improved in a distributionally fairer way by improving in-work benefits rather than adopting this Poor Law mentality of cutting out-of-work benefits. Indeed, a cross-national study reported in the 2009 British Social Attitudes survey concluded that,

"employment commitment is stronger in countries with higher levels of welfare state generosity".

Therefore, I really do not believe that there is any justification for freezing benefits, not just for two years, as stated in the Conservative manifesto—as my noble friend pointed out—but, in effect, for the whole of this Parliament. I accept that, at present, it looks as if inflation will remain low, but who knows what shocks might hit the world economy and with what effects? It therefore behoves a responsible Government to keep benefit levels under review and to accept these amendments.

Lord Kirkwood of Kirkhope: My Lords, I will add a few comments to what has already been said. I think that Clauses 9 and 10 are terrible. I object in principle, as did the noble Baroness, Lady Lister, to the idea that we can forecast need. I am speaking for myself: I do not know what my party position is or will be, but I am convinced that nothing is more emblematic of the approach of this Government of attacking the working poor and dealing with austerity disproportionately.

That does not mean to say that austerity does not mean to be addressed. The low-income households in this country—in or out of work—will suffer; thankfully, that distinction will become less relevant as universal credit rolls out. I do not think universal credit will come on stream fast enough to help everybody. We have been waiting for the rollout; there are around 155,000 in full compliance with the universal credit system. That will be a much better place to be once the whole country is there but, in the interim, these four years in which we will be freezing these benefits will cost low-income families dear. Why? It is because it is on top of everything else, and I have said that before. One of the biggest disappointments—and I have said this before as well—in the coalition government days was the fact that we did not evaluate the results of the totality of the integrated cuts that were made. That applies to services as well. Now, we are having another four years' freeze, which is £3 billion or more on top of everything else, without any metrics that begin to contemplate what that might mean for people caught in different, unforeseeable ways by a combination of the cuts.

I have been looking at this area of policy for as long as anybody here, and I am not sure that we will be able to look as far ahead as 2018, 2019 or 2020 with any confidence whatsoever about the conditions that some of these households will face. That is disgraceful and completely unjustified. Of course, the Government are able to found this on the fact that there was a mandate, as it is called, for these measures. Well, there was certainly not in Scotland—the evidence for that is pretty clear. I have said before in this Committee that I worry about the political aspects of this Bill and some of the consequences that will be felt in the coming weeks and months of the Scottish elections for the next Holyrood Parliament. This Bill will not have escaped the notice of some of the more hard-line nationalists north of the border, which is not in the long-terms interests of the United Kingdom. I am sure about that and feel really cut off at the knees in trying to explain to people north of the border what is going in.

7.30 pm

I understand that for the Conservatives and others of us here, and for people like us, the benefits system is perfect. There is no problem for us; we can cope. We have choices, wealth to fall back on and resilience. We have family and friends, and bank accounts. Yet for the 10%, 15% or 20% at the lowest levels of household income that people must struggle with—and right now, never mind in 2020—it is very different, not just difficult. They have no choices whatever, so this is piling pressure upon pressure. It is absolutely true that in the old days when I used to go to the early uprating debates, as I think I have been doing for 19 years, I was able with some confidence to go home to my then constituency and say, "We are trying as best we can with the resources available to the nation to share the growth the country generates." Over a period of time, that has changed. The noble Baroness, Lady Lister, is right to point to Professor Bradshaw's work which tracked the relative fall in the value of some of these benefits. It is stark—it is compounded and it is never won back. It is a perfectly good question to ask whether, come 2020, this Government, were they to be returned to office, would think about relinking benefit increases to general rates of earning. However, even so, they would never make up this £3,000 million or £4,000 million we are extracting from the lowest income working and non-working families. The noble Baroness, Lady Lister, made an important point on working families, too.

I am really angry that we contemplate saying to the lowest two deciles of income distribution, "It does not matter how much growth the country generates, or how much wealth there is in other parts of the system or with 80% of the population." That is people like me; I am in the retired group. I sit in a house that I bought for £12,000 in 1972, which is probably worth £600,000 or £700,000 now. All I pay is a frozen community charge north of the border, which is de minimis. My generation and people like us sit in an austerity-free zone. That is how I see it. Yet I meet people all the time who are hit left, right and centre in ways they cannot control or choose to avoid. Clauses 9 and 10 are emblematic of this. They illustrate the difference between the Conservative Government's mandate and approach compared with the coalition Government days, when at least the issues were weighed in the balance. I was not in favour of everything they did, either, but this is too much.

We must reach a point where we say, "Let's just wait and see how this works out". If the country trades itself out of austerity, then we should be more generous

and think about re-establishing the link. If the country goes in the opposite direction, of course, there may be more adversity that we all must face. My point is that everybody needs to face it more equally. I do not care what is said: we are not all in this together. If anybody ever wanted evidence of that fact, Clauses 9 and 10 demonstrate that beyond peradventure. I will resist these clauses as strongly as I am able during the rest of the Bill's proceedings.

The Lord Bishop of Durham: My Lords, I support these three amendments. I do not wish to repeat what has already been said but the passion of the noble Lord, Lord Kirkwood, echoes in my heart because I, too, am deeply concerned by the impact these freezes will have on the poorest.

Most of us were delighted when the Chancellor of the Exchequer decided in the spending review that the national economic situation meant that we could, after all, as a nation afford not to make the previously determined cuts in tax credits. If this House had not voted the way it did, I presume he would not necessarily have been given the opportunity so to reassess in the light of the national economic situation. If the Bill is passed as it stands, the Chancellor has no option but to enact a freeze for the next four years.

While accepting that welfare spending must be controlled, we need to look very seriously at the impact on the poorest. I do not want to see the Chancellor's hands tied to a freeze if the national economic situation continues to improve as forecast, or perhaps even more significantly. Suppose it does: who should be the beneficiaries? Surely, it should be the poorest. If the economic situation improves in 2017 and the Chancellor realises that actually, the nation could afford a slightly higher rate of child benefit or other benefits, that is what he should allow—not give it to people already perfectly well off because we earn enough. As the noble Lord, Lord Kirkwood, said, austerity, frankly, is not hitting large numbers of us. Surely, then, the Chancellor should value the freedom to once again say, "Well, we didn't think we would be able to afford this but the national economic situation is better than expected so we are delighted to be able to offer a small—or perhaps large—amount of extra support for the well-being of children and the most needy in our country". Does the Minister not think that would be a good position for the Chancellor to be in, rather than having to stick with a freeze without exception?

Baroness Evans of Bowes Park: My Lords, I thank the noble Baronesses, Lady Sherlock and Lady Lister, and the noble Lord, Lord McKenzie, for these amendments. I will first set out why we believe a four-year freeze of certain social security benefits, child benefit and elements of working tax and child tax credits is necessary.

In total, measures to freeze benefits and tax credits are projected to contribute £3.5 billion of the £12 billion welfare savings the Government are committed to by 2019-20. The Government need to make these savings to reduce the deficit and to manage welfare spending. Spending on welfare increased by 54% in real terms between 1999 and 2010, and tax credit expenditure more than trebled over the same period. Despite the progress made in the last Parliament to increase incentives to work and reduce reliance on benefits, there is still more to do.

Some 7% of global expenditure on social protection is spent in the UK, despite the fact that the UK has only 1% of the world's population. Between 2008 and 2015, average earnings rose by 12%, and the minimum wage increased by 17%. At the same time, benefits such as jobseekers' allowance increased by 21% and the individual element of child tax credit rose by 33%. The benefit freeze will begin to reverse this trend. However, we are clear that we must continue to protect the most vulnerable. That is why we ensured that certain benefits are exempted from the freeze, such as pensioner benefits, benefits which contribute to the additional costs of disability and care, and statutory payments.

Concerns have been raised about the level of benefit rates after three years of 1% rises, to now be followed by four years of the freeze. Successive Governments have always sought to strike a balance between the needs of claimants and affordability, and I can reassure noble Lords that when introducing this freeze we have had due regard to these issues, but we believe we have struck a balance that protects certain key benefits and generates the savings I have set out.

There are no cash losers with this policy, and the continued growth in wages will help to mitigate the impact of the freeze for working families. The OBR expects wage growth to reach 3.9% by 2020. Around 30% of households will face a notional loss but, as I have said, the other things we are doing in the broader economy should go some way to mitigate it, and I will go through a couple of them in a second. We have also fully assessed the Bill's impacts on equality and the wider budget meeting our obligations, as set out in the public sector equality duty.

The purpose of the amendments is to replace the freeze with a duty on the Secretary of State to review those benefits, having regard to inflation and the national economic situation. This Government's overall approach is to give a level of certainty to taxpayers, employees and benefit claimants. As well as setting out the four-year freeze, we have also set out a clear plan to raise the national living wage to £9 an hour by 2020, to increase the tax-free personal allowance to £12,500 by the end of the decade and to double the free childcare available for working parents of 3 year-olds and 4 year-olds to 30 hours a week, which is worth £5,000 a year. The amendments would take away the certainty that we are attempting to implement, and for that reason we cannot support them.

The noble Baroness asked what happens after the four-year period.

Baroness Hollis of Heigham: The Minister has said that this is very helpful to benefit recipients because they now have certainty that their benefit will fall in real terms, as opposed to the possibility that it might keep pace with the cost of living. Would she care to correct her statement?

Baroness Evans of Bowes Park: I have said that we have had to make some difficult decisions.

Baroness Hollis of Heigham: Difficult for whom? To use the phrase used by the noble Lord, Lord Kirkwood, I suspect that every Member of this House is protected from the difficult decisions. The difficult decisions will fall on those people who will have to choose whether to turn off their heating or pay their rent.

Baroness Evans of Bowes Park: As I said, by being upfront about the freeze, we are trying to ensure that people in receipt of these benefits understand that that will be the situation over the next four years. We are taking numerous other measures, including the national living wage and the childcare changes, to try to help these families in other ways. That is what we are doing with this freeze, and I urge the noble Baroness to withdraw her amendment.

Baroness Sherlock: My Lords, I thank all noble Lords who have spoken in this short debate. I thank my noble friend Lady Lister and the noble Lord, Lord Kirkwood, for highlighting the difficulties that the Government must have in understanding the implications of their decisions, since looking forward four years they have no way of knowing what economic conditions will prevail and what will happen to inflation.

I particularly want to thank the right reverend Prelate the Bishop of Durham for making a very obvious point: that when this House voted on tax credits, the Chancellor was in position to make a difference. The reason why he was able to overturn that decision was that he found £27 billion down the back of the sofa. It is not impossible that there might be some more money down the sofa, if he shakes it hard enough. It is not impossible that, if all the boasts the Government make about the marvellous things happening to the economy come to pass, a couple of years down the line he may find the economic situation is looking good. If the economy is growing again, he may want to reconsider his decision not to share the proceeds of that growth with the poorest in our country. Why on earth would he want to tie his hands?

I would put money on it that if I asked the poorest people affected by this whether they would rather have the certainty of benefits falling in real terms year on year, or keep open the possibility that they will rise if the economy improves, most would be willing to take a chance—unless the Government are suggesting they would in fact cut them. All this amendment does is to allow the Government, if they wish to do so, to have exactly the same savings in four years' time, but it would make them do two things. Every year, they would have to come back and look the country in the face, via this House, look at what people have to live on and explain their decision, and they would have to account for it. All they would have to do is to put it to both Houses of Parliament every year. What are they afraid of? People out there have suffered enough. The very least the Government can do is stand up for themselves. Given that we are in Committee, I beg leave to withdraw the amendment.

Amendment 95 withdrawn.

Amendment 96 had been withdrawn from the Marshalled List.

House resumed. Committee to begin again not before 8.45 pm.

Banks: Vulnerable Customers

Question for Short Debate

7.45 pm

Asked by ***Baroness Hayter of Kentish Town***

To ask Her Majesty's Government whether they have any plans to ensure that retail banks treat their vulnerable customers fairly.

Baroness Hayter of Kentish Town (Lab): My Lords, the story begins with a letter, out of the blue, to a 93 year-old woman, just two days out of hospital, from her bank, giving her, after 60 years with it, "formal notice" that her account,

"will be closed and our contact with you ended"—

allegedly a decision "not taken lightly" though, in fact, it was made after no attempt to contact her, no problem with the account and no reason for any such action, all of which the bank later admitted. Furthermore, the unsigned, computer-generated letter went on to say that, once the account was closed,

"no further standing order will be paid",

and,

"any cheques presented ... will be rejected with the response 'account closed'",

and—the story does not end there—

"should we receive any request for a status report about you … we will reply that we are unable to express an opinion. Lastly, we will not be prepared to offer you any new banking services".

So an active account, held over a lifetime, was to be closed, and the customer rendered unbankable.

A flurry of exchanges followed, sadly demonstrating a lack of truthfulness by the bank which said that it did not know of any vulnerability about her or her husband. The latter was in a home with Alzheimer's, the fees were paid through the same account, and the bank held a power of attorney for him and was aware of the lady's age. All of this the bank later admitted, including that no contact had been made prior to the letter. The bank rectified this case with a bouquet of flowers and with compensation of £750 being given to Alzheimer's and stroke charities. I fear that it was the intervention of a Member of your Lordships' House that may have made the difference.

But this is not an isolated story. We have read of Daniel Head with Barclays, the Langleys with HSBC and Barclays again with power of attorney problems, and I have heard of many other examples around this House and elsewhere—so my follow-up is about the wider issue, not this specific case, though the bank remained unhelpful, refusing to say how many such letters were sent, why they went direct from a computer with no personal signature and no senior sign-off despite the gravity of the letter, or whether this happens for an active account held for 60 years.

We have a systemic problem which breaches the legal duty of care under which banks must ensure that they put the interests of their customers first. Indeed, with the support of the Financial Services Consumer

Panel, we on this side of the House tabled amendments to require the FCA to make rules on the duty of care which the Government rejected. Will the Minister now revisit this decision?

The Consumer Panel has also identified problems over forced bank account closures and wants banks to be more transparent about them. It is claimed that they are about suspicions of money laundering, but they have dire consequences for customers, leaving them with no current account and no ability to open an account elsewhere as they are effectively blacklisted.

The Financial Conduct Authority's recent paper on vulnerable consumers rightly says:

"Vulnerability can come in a range of guises, and can be temporary, sporadic or permanent in nature".

However, many banks use a very narrow definition of "vulnerable". For example, the BBA focuses mainly on mental health, a tiny part of the picture. Vulnerable customers are not a fixed group. Life events like job loss, bereavement, divorce and illness can render any of us temporarily vulnerable. My own view is that while vulnerable consumers are those especially susceptible to detriment, such detriment actually arises, as the FCA admits,

"when a firm is not acting with appropriate levels of care".

As the FCA wrote:

"Most problems relate to poor interactions ... systems that don't flex to meet needs … failure of internal systems … where firms fail to communicate … internally … plus … over-zealous implementation of rules".

So systems are the problem, not the client.

The FCA says:

"Fair treatment of all customers is central to core conduct"—

and this is the lesson I want to draw. Banks must sort out the problems. It should not be for consumers to tell a bank that they are vulnerable. Banks should be treating all customers fairly. Some banks and regulators seem to think that all we need is "full competition", in the words of the TSB, for,

"consumers … to see a change in an industry that's been stacked against them for far too long".

But I do not accept that customers should have to wait for that competition before they get a fair deal.

Contrary to the CMA's view, customers should not have to switch banks in order to drive up standards. Regrettably, despite evidence of poor customer care, the CMA fell back on the hoary old "competition" let-out: if only there were competition and consumers switched, banks would have to improve. That will not do. Banking is virtually an essential service and customers should not have to put up with poor service, let alone be threatened with the forced closure of accounts.

The Financial Conduct Authority must act to clean up banks' poor service. If it does not, the Government must tell them to. This is for all clients, not just the vulnerable. Indeed, in the case with which I started, although my aunt—for it was she—is in her 90s, she has every marble and more and is not in debt. However, she had just had a stroke, and did not need her blood pressure raised by finding her bank account closed and being rendered unbankable, possibly even without even access to her funds that the bank held. So for her, and for others, I ask the Government whether they have any plans to ensure that retail banks treat their vulnerable customers—indeed, all their customers—fairly.

7.53 pm

Baroness Janke (LD): My Lords, I am grateful for the opportunity to hear from the noble Baroness, Lady Hayter, about the experience that she has described. It is certainly the case that banks need to look at how their systems work regarding vulnerable customers. I was hoping today to raise the wider issue of financial exclusion in the UK, which has been of concern for some time.

The Parliamentary Commission on Banking Standards estimated that 3 million people are financially excluded—that is, excluded from or unable to engage with the financial services necessary to play a full part in modern life, to manage money to absorb financial shocks, and to plan and provide for the future. Information from the Community Investment Coalition states that 9 million people are overindebted; 13 million people do not have enough savings to support them for a month if they experience a 25% cut in income; and 56% of the poorest households do not have home contents insurance. Citizens advice bureaux in England and Wales dealt with 4,907 new debt problems every day during the quarter ending September 2015.

Access to basic banking facilities is an essential part of modern life, as employers and government agencies move away from cash and cheques towards electronic payments. Small and micro businesses are also affected by difficulties in accessing basic affordable financial tools. This impacts on their sustainability and opportunities for growth. Effective tools for savings, payments and accessing credit and insurance can help people to climb out of poverty or get through a crisis or emergency without falling into debt. It can help businesses to survive and grow and not slide into bankruptcy should a crisis occur.

While there is a rapid move to mobile banking, many older people, cash-based businesses and people in poorer communities are still dependent on access to bank branches to manage their money, yet there was a net loss of nearly 7,500 bank and building society branches between 1989 and 2012—more than 40% of all branches.

The coalition Government undertook a series of measures to tackle specific barriers to financial inclusion, including a £38 million investment in the credit union advancement project, while the previous Government provided £74 million for credit unions and community development finance institutions to lend to deprived and excluded communities. Finance education was put on the national curriculum for secondary schools in England, and the regulation of high-cost short-term credit and auto-enrolment for workplace pensions were introduced. Local authorities and housing associations are trialling ways of supporting financial capability and tackling indebtedness.

However, more needs to be done to address financial exclusion. Every adult, household and business should have access to a basic package of fair and affordable finance tools to actively participate in the economy through employment or entrepreneurialism. These should

[Baroness Janke]
include a basic transactional bank account; a savings scheme; access to credit; physical access to banking facilities; insurance; and independent money management advice. Clear action from government must include an examination of community finance provision across the UK to identify where communities have the potential to be well served by existing providers and where there are gaps, and an evaluation of existing affordable finance tools—what the take-up is in poorer communities, whether available products are meeting demand and how these products can be offered more widely.

The Government should give regulators clear direction on the value and importance of the community finance sector and the need to regulate to encourage stability and growth. There should be a scaling-up of the community finance sector to increase investment and access to capital with the creation of a banking licence tailored to this sector. This would include permitting co-operatives to hold banking licences and investing in suppliers of central services to all local community finance providers, such as access to payments, infrastructure and regulatory compliance.

Although progress has been made in reducing financial exclusion, radical change in such areas as digital technology, finance systems, benefits and pensions means that a strong lead must be taken by government if the poorest and most vulnerable in society are to be protected from financial disadvantage and the disastrous outcomes that may result. I very much hope that the Minister will consider these proposals and perhaps be able to describe what the Government are doing to reduce financial exclusion and enable everybody to participate in the modern world without the disasters that we know have befallen many vulnerable citizens.

7.58 pm

Lord Cashman (Lab): My Lords, I congratulate the noble Baroness, Lady Hayter, on securing this important debate. For clarity, perhaps I should point out that although my name is Cashman, I am not a banker.

I have been concerned for some time, as someone who lives in a part of London that is both extremely rich and extremely poor, about the disparity in access to banking services—namely, ATMs. Often when people cannot get to bank ATMs, they have to pay an additional charge when they use them in places such as newsagents. Branch access is another big issue, and the need for clear and jargon-free accounts and information from front-line staff who are properly trained. Equally, as one who has known the concept of vulnerability both personally and within my family, I recognise, as my noble friend Lady Hayter pointed out, that there is a wide definition of "the vulnerable". Indeed, even those who would be described as vulnerable do not see themselves as being in that category.

However, lots of excellent work has been done. Once again, I congratulate and commend the House of Lords Library service and the documentation it has produced on this issue, which highlights the need for much more to be done—if necessary, with the force of legislation.

I welcome the moves by the European Commission, following its consultation and recommendation, for a directive that would create a right—I repeat, a right—for European citizens to open a payment account with basic features, irrespective of their financial circumstances. The directive specifies minimum standards that include: transactional services, direct debit, a payment card, ATM access and the absence of any overdraft. This directive must be supported by all member states.

The banking industry generally has spent more than £300 million, which is to be welcomed and recognised. However, retail banks are not matching minimum standards and many are on a race to the bottom as they seek to freeze out those who require the most basic account in order to function in the modern world, and indeed to gain access to internet services and the competitive processes and prices on the internet, such as low-priced energy deals or telecom deals when paying by direct debit or standing orders.

Banks that have shown real commitment—it is worth mentioning them—are: Barclays, which still remains the only retail bank that will open accounts for undischarged bankrupts; the Co-operative Bank; and Lloyds. The latter two also carry the largest number of basic accounts and thereby the biggest burden, which should be shared more equitably. The Nationwide Building Society has a good record in this area, too, as does Metro Bank, which prides itself on accessibility and welcoming new business.

Here I will address a related issue, of start-up charities and the appalling hurdles and almost insurmountable obstacles that are placed in their way when trying to open an account for a newly established charity, foundation or trust. My own experience is that building societies and virtually all high street banks do not want to open new accounts for charities. The one and only bank that facilitated the process and welcomed this new business was Metro Bank, which complied with all aspects of law and due diligence and showed how it can be done. It is shameful and shocking that other high street banks have turned their backs on such business. I can only surmise that it is because this is an area of work that causes them to work.

To return to the main issue, the vulnerable in our society are being let down by the majority of banks, which will have a tremendous negative impact on the poorest and most needy in our society, especially when we see universal credit rolled out and increasing reliance on payments into and out of banks. People are undoubtedly going to suffer unless something is done. In the Library document there is an appalling catalogue of poor services, poor information, sharp selling, phone lines which cost the user an additional fee by the minute—0845 numbers, and others—continued interdepartmental referrals where people already under stress have to repeat the issue and their circumstances again and again. There is a catalogue of pre-tailored responses to people who are trying in all good will and faith to notify their banks of potential financial problems due to ill-health, bereavement, redundancy, and so on. The catalogue of complaints which have been upheld by the Financial Ombudsman does not make pleasant reading.

Quite frankly, it is shocking that people in need of basic services, let alone basic understanding and compassion, are left sadly and badly wanting, and often with nowhere or no one to turn to. Yet I must

recognize the tremendous work undertaken—often with much reduced resources—by Citizens Advice, the Money Advice Trust, National Debtline and many other charitable organisations. So, too, the work by the FCA, the Financial Ombudsman, the Financial Inclusion Commission, and the work of your Lordships' House and the other place in the report of the Parliamentary Commission on Banking Standards. In particular, I will refer to the recommendations of the commission, most notably paragraphs 290 and 291, which can be summarised:

"The Commission believes that banking the unbanked should be a customer service priority for the banking sector. It should be a right for customers to open a basic bank account irrespective of their financial circumstances. The Commission expects the major banks to come to a voluntary arrangement which sets minimum standards for the provision of basic bank accounts. The failure of the most recent industry talks and the apparent unwillingness of some banks to engage constructively in coming to an agreement is a cause for concern … In the event that the industry is unable to reach a satisfactory voluntary agreement on minimum standards of basic bank account provision within the next year, the Commission recommends that the Government introduce, in consultation with the industry, a statutory duty to open an account that will deliver a comprehensive service to the unbanked, subject only to exceptions set out in law".

I note that the British Bankers' Association vulnerability task force, under the chairmanship of Joanna Elson, will report in March 2016. Notwithstanding that, I look forward to the Minister's reply and in particular to hearing not what we should or must do but what we are going to do, and when, to address this major problem which disadvantages so many people from so many different backgrounds and perspectives and which, as I know only too well, could affect any one of us.

8.06 pm

Lord Soley (Lab): My Lords, my comments will follow those of my noble friend who has just sat down and of my noble friend Lady Hayter. I have been concerned for some time about the poor standard of service to many people from the banks. I want to say first of all that I know that improvements are in the pipeline; my noble friend has just referred to some of them, and I am aware of the *Practitioners' Pack* that has been issued by the Financial Conduct Authority—all of which are welcome steps. I have also seen one or two improvements on banking websites just recently.

I will focus my remarks on one area which is a growing problem. It is the issue of power of attorney for vulnerable people. I speak partly from my own experience of having to manage the finances of a relative for whom I have power of attorney. The experience is not a good one and is very difficult to deal with. A very important point here links into what some of the things the Financial Conduct Authority needs to look at as well, which is the relationship between the banks and some of the other financial institutions which persuade people to part with their money, often by direct debit and other means, to pay for services of one type or another.

I will start simply with the example which brought it to my attention—that of my own relative. When I discussed it with other Age Concern-type groups they told me that this was fairly common. When I took power of attorney I started looking into what banks, including the bank I was dealing with for my relative, had an easily searchable site for power of attorney. Generally, it was bad news. Barclays has just improved very considerably, and now, if you type "power of attorney" into the search engine you get a number of options. When I typed it into the NatWest website I got no answer, and no answer from the frequently answered questions either. When I typed it into HSBC, which I have never rated very highly for any of these services, the site just told me what power of attorney was—a power that is given to someone else—but did not tell me what to do about it or how to use it, or anything like that.

The worst experience was with Barclaycard. Unfortunately, I had taken the card myself, but it took me about two months to close it down. First of all I went to Barclays Bank, as most people would do, only to be told, "Barclays Bank is different from Barclaycard". I rang Barclaycard and had a couple of phone conversations, during one of which I was told to go to Barclays Bank. I therefore went back and told the people there, and again they said, "No, we can't do it here", and I said, "Well, I was told on the phone that you can". The response was, "No, we can't". I made a major effort to close down the card. I got through to a very helpful person on the phone and eventually the situation was sorted out. But the fact that there is nothing on the website about power of attorney is bad. When you search through the terms on a bank's website, you should be able to type in "power of attorney" and get the information you need.

On the Barclaycard website, I found my way to a part of the site which said, "We help vulnerable people". There was a picture of an elderly lady called Alice whom the company was helping, but there was absolutely nothing about power of attorney for her; it just said, "We will help Alice if you phone this number". It said that it could not give any details about a particular person but that, if you told the company who it was, it would look into it. It is so ill thought through that it is almost impossible to imagine anything worse.

People's experiences of dealing with banks vary immensely. My experience with Barclaycard was particularly bad but others which I have talked to have been quite good. It depends very much on whom you get to speak to. But the evidence that I have picked up generally both from my own experience and from talking to other people is that, by and large, many of the staff do not know what to do at first and often have to refer the matter to someone else. With the increase in the incidence of dementia and related conditions, power of attorney is now so common that we ought to see it as a primary factor.

Similarly, companies should provide an address to write to. I am pretty familiar with the internet and computers—I can use them—but we should bear in mind the people who cannot. What would someone of my age who may not be familiar with the internet and computers have done in the situation that I have described? They would have gone to the bank but I am not sure how that would have worked out, and in many cases there is no address to write to.

The other thing that I was particularly struck by—I want to draw this to the attention not only of the Minister but of the Financial Conduct Authority—was

[LORD SOLEY]

the linkage between banks and financial organisations. On my relative's account there was a regular payment for a freezer. It was obviously an insurance payment, although it did not say so sufficiently clearly on the bank details for me to find out what it was for. Eventually I found out that the payment was for insurance on a freezer and it had been going on for at least five years as far as I could make out, although I am still waiting to hear the details. I stopped the direct debit as there was no point in making the payment—I had moved my relative out and was selling the house.

However, about two months later I looked at my relative's account again and found that the direct debit had restarted. When I visited the house, which at that time was empty as I waited to sell it, I came across an unopened letter. It said:

"Your … Fridge Freezer Protection Plan is due to expire on", 14 July,

"but there's no need to worry—we'll renew it automatically".

I wrote to the company, Domestic & General, and got a reply in which it apologised, saying that it regarded that seriously and did not think that it should have happened. In fairness, I must give it more time to deal with the matter, but it said that it does not think that a direct debit should be restarted without direct permission. I do not think that it should either. The problem is that I really do not know whether the fault lies with the insurance company or with the bank. What I do know, with great clarity, is that if I stop a direct debit and the bank agrees to stop it, I do not expect it to start again without my permission. I suspect that this has happened in other cases. People have said to me, "Oh yes, they can restart it automatically". I suspect that this is partly down to a payment being restarted at the end of a term, but in the middle of a term it is not justified.

I have come across a number of situations of this type. Another one concerned the broadcaster Sky. My relative was paying £80 a month for the full service, and this was someone who had never watched sport in her life. She had the full package and the payments went on, although eventually I managed to stop them. Therefore, there is a very real problem here for vulnerable people and for the person who has power of attorney. I can find my way through the problem but an awful lot of people will not.

Finally, banks have to get a lot better at dealing with things such as direct debits. The one that I bank with mostly is the Co-operative Bank and it is often very hard to work out the name of the organisations that my direct debits are going to. They often have coded names, which is fine if you can remember what they are. In my case, I have about 30 direct debits. I sometimes wonder what they are for and have to look them up. Every direct debit should be listed with the name of the organisation that it is going to, and it should be a proper name and not one that leads you off down the highways and byways of the internet. It must be recognisable.

So there is a gap here between banks and financial institutions generally and other organisations that take money off people through regular direct debits without any real clarity. I am very pleased that a *Practitioners' Pack* is now available from the Financial Conduct Authority, and I am very pleased that there are other changes in the pipeline. It is obviously starting out on a journey but it has a very long way to go, because the standard of service is very poor. I could also talk about the charity issue to which my noble friend Lord Cashman referred. I started a not-for-profit company but HSBC seemed more interested in getting it closed down than in helping me to manage in a difficult area.

But my key point is about vulnerable people. That is what the debate is about and I welcome it. The power of attorney issue is becoming increasingly important. If I were to make a simple plea to every financial institution and insurance company, it would be, "Make sure that you have 'power of attorney' in your search engine so that people can link into it. Then start thinking about what you do for the older person who is not familiar with using computers". If an older person has power of attorney for a wife or a husband, for example, how on earth do they manage? It is not like the old days when you popped down the road to see your bank manager. There should be one person in every bank to whom you are referred if you have problems of that type.

8.16 pm

Lord Ashton of Hyde (Con): My Lords, I thank all noble Lords who have spoken today and I especially thank the noble Baroness, Lady Hayter, for securing the debate and giving me this opportunity to explain how the Government try to ensure that retail banks treat their vulnerable customers fairly.

I have to say that I agree with nearly everything that all noble Lords have said. I, too, have had personal experience of these issues, including the power of attorney issue—my mother died last year of Alzheimer's, so there were other issues that I will not bore noble Lords with. Interestingly, my father was a director of Barclays Bank for 20 years and worked for them all his life—some time ago, I hasten to add, before the latest troubles occurred. In those days, there was a greatly different approach to individual customers. That is something that banks need to think about. They certainly knew their customers a lot better than they do now. Incidentally, my father was a director of both Barclays and Barclaycard.

The Government are determined that banks, and the wider financial services sector, should work for everyone, at every stage of their lives. We want to improve access to financial services for all—I will come back to the remarks made on that by the noble Baroness, Lady Janke—including the elderly, the vulnerable and rural communities.

The UK does have in place a strong regulatory framework to protect customers. In 2012, the Financial Conduct Authority was set up to regulate the conduct of all financial services firms. The FCA requires banks and building societies to provide a prompt, efficient and fair service to all their customers, and that includes the vulnerable. The FCA is, of course, accountable to Parliament, and its annual report sets out progress on its operational objectives. The handbook requires firms to identify particularly vulnerable customers and to deal with such customers appropriately. The first of its three operational objectives is to secure an appropriate degree of protection for customers.

The FCA also engages actively with the industry to ensure that firms consider the needs of their vulnerable customers. As many noble Lords have mentioned, earlier this year the FCA published an occasional paper on *Consumer Vulnerability* and a *Practitioners' Pack* to help industry create and implement appropriate strategies to address the needs of vulnerable customers. This work captured findings from a number of third sector organisations. What was shocking to me in that report was the sheer scale of consumer vulnerability in the UK, particularly in literacy and numeracy. However, it also highlighted the success of partnerships between retail banks and charities such as the Alzheimer's Society. These partnerships have helped banks and building societies, and in particular front-line staff, to better understand the needs of customers. The clear message from the FCA research is that we can all become vulnerable.

Many commentators, including the Financial Services Consumer Panel, of which the noble Baroness was a distinguished vice-chairman, think that firms can still do more. Since the FCA research was published, the British Bankers' Association has set up the financial services vulnerability task force, in September. This will look at how institutions can improve the experience of customers who may be in vulnerable circumstances. The FCA is involved in this work, alongside a number of charities and financial services trade groups.

The objectives of the task force are to identify good practice and the gaps where policy, systems, products and implementation could be improved, and to make recommendations within six months to see that best practice is adopted across the industry. In particular, it will consider opportunities for retail banks to deliver more consistency in key processes, such as firms' requirements of consumers in bereavement notifications, access to power of attorney accounts, which the noble Lord, Lord Soley, referred to, and identification requirements. I can tell the noble Lord, Lord Soley, that the power of attorney issue will be covered by the BBA task force. It is clear that this is something that members of the industry have started to recognise and are looking to address.

The aim should be that vulnerable customers are treated fairly from the outset. If that is not the case, it is of course possible for the customer to complain to their bank. Again, the FCA's rules require the banks to properly investigate all complaints, and it monitors complaint-handling processes. If the customer is unhappy with the way the bank has handled their complaint, the Financial Ombudsman Service may be able to investigate. It provides a free, independent dispute resolution service for bank customers, and would consider the emotional or practical impact on a customer and not just financial loss.

The Government are also working hard to ensure that all customers can access the banking services that they need, which the noble Baroness, Lady Janke, and the noble Lord, Lord Cashman, referred to. The regulation of the consumer credit market has been fundamentally reformed by transferring responsibility for consumer credit regulation, including the payday market, from the Office of Fair Trading to the FCA, which has much stronger powers. The Government have legislated to require the FCA to introduce a cap on the cost of payday loans to protect consumers from unfair costs.

The noble Baroness, Lady Janke, mentioned also financial literacy, which has been introduced into the secondary school national curriculum.

The Government also recognise the difficulties customers may have in accessing a bank account, which relates to the points made by the noble Baroness, Lady Janke, about exclusion. To address this, the Government have reached a landmark agreement on basic bank accounts. It makes clear the groups of customers who should be offered a basic bank account, including those who have no bank account, have a bank account elsewhere but want to change provider, or have a bank account but are in financial difficulty and want their bank to open a new, functional account for them.

Until now, basic bank account customers have risked incurring charges for failed payments, meaning financially vulnerable customers could be pushed into serious debt. From the end of this year, basic bank accounts offered by the nine major current account providers in the UK will be truly fee free, including for failed payments. In September 2016, the Payment Accounts Regulations—to which the noble Lord, Lord Cashman, referred—will come into force, and I had the pleasure of taking them through this House with the full support of the opposition parties. That will create a firm legislative framework for continued access to basic bank accounts in the future.

The noble Baroness, Lady Hayter, asked about the Competition and Markets Authority. Its provisional findings were published at the end of October and they still need to be consulted on. The CMA will issue a final report next spring but the Government stand ready to take action as appropriate once we have the CMA's final recommendations.

The noble Baroness also referred to bank account closures. The supervisors in the FCA may well use account closure as an example to explore how a bank treats its customers. If they receive specific intelligence on an issue at a specific firm, they may consider whether it is appropriate to pursue the issue. As I have said, individual cases should be pushed through the official complaints process.

The noble Baroness, Lady Janke, referred to credit unions as part of her remarks on exclusion in financial services. We have encouraged the growth of the credit union sector, but I will not go into the detail of that.

The noble Baroness also asked what the Government are doing to ensure that the vulnerable, the elderly and the rural communities have access to banking services. We are committed to improving access for those groups. Banks and building societies are required by the FCA to provide a prompt, efficient and fair service to all their customers. Very importantly, each of the major banks offers some level of service through the Post Office network, which the majority of the banks' customers can use in 11,500 branches across the UK.

I mentioned financial literacy at school, but financial literacy and numeracy among adults in this country is also quite shocking. The coalition Government established

[LORD ASHTON OF HYDE]
the Money Advice Service to enhance consumers' understanding and knowledge of financial matters. Recently, we launched Pension Wise, which offers free and impartial guidance to those aged 50 or over on their retirement options.

On basic bank accounts, I mentioned the payment accounts directive and the agreement that we had reached. These negotiations to improve basic bank accounts have been aimed at preventing practices such as limited access to ATMs and the charging of significant fees.

The noble Lord, Lord Soley, referred to the power of attorney. It is an issue which will be covered by the BBA task force. That is a very important aspect that it needs to cover. On auto-renewal, the FCA has launched a consultation, which was published on 3 December. I feel that there has been a sea change in the sense that the FCA has been very clear in what it has written and what it expects from companies. The BBA task force, which covers all financial services, has a wide group involved in it, including charities, and will report in six months. As I have said, the Government stand ready to come in but we will see what it comes up with in a relatively short space of time.

In conclusion, I assure all noble Lords who have spoken that the Government are committed to ensuring that retail banks treat all their customers fairly. This includes vulnerable customers. I hope the Government's actions that I have outlined today provide noble Lords with some reassurance on this point.

8.28 pm

Sitting suspended.

Welfare Reform and Work Bill

Committee (4th Day) (Continued)

8.45 pm

Amendment 97

Moved by ***Baroness Pitkeathley***

97: Clause 9, page 11, line 31, at end insert—

"( ) Notwithstanding subsection (1), for each of the tax years ending with 5 April 2017, 5 April 2018, 5 April 2019 and 5 April 2020, the amount of each of the relevant sums claimable by persons regularly and substantially engaged in caring is to increase in line with inflation."

Baroness Pitkeathley (Lab): My Lords, once more we are looking at the problems faced by carers. This amendment would ensure that the full benefits of people on very low incomes who are regularly and substantially engaged in caring rise in line with inflation. As we have heard, Clause 9 proposes that the rates of certain working-age benefits will be frozen for four years at their 2015-16 rate, while Clause 10 makes equivalent provision for certain tax credit elements. The freeze excludes carer's allowance, attendance allowance and certain disability benefits, but despite their exclusion, we should remember that many carers receive other means-tested benefits as a significant or major part of their benefits package, and as a result will not be protected from the real-terms cut. For example, research shows that half of carers claiming carer's allowance also receive income support because they are on a very low income. The Government have announced that the carer addition top-up to income support would rise with inflation, but this does not mean that carers are protected. The main chunk of these carers' benefits will face a real-terms cut of 4.8% over the period 2016-17 and the year after as a result of the freeze. This is on top of previous below-inflation increases of 1% since April 2013.

By 2019-20, carers will be receiving nearly £190 a year less in income support alone than they would have if the whole benefit was uprated in line with CPI. For carers who receive a wide set of means-tested benefits in their households, the cumulative cut in income due to the freezing of numerous benefits will be substantial. Even protected benefits such as carer's allowance have been the subject of recent real-terms cuts as the indexing base has changed, something with which noble Lords will be familiar. The freezing of working-age benefits such as income support will place further financial pressure on carers, many of whom are already suffering significant financial hardship.

Evidence collected from more than 4,500 carers in the Carers UK State of Caring Survey this year suggests that almost half of carers—48%— are struggling to make ends meet, as we heard earlier from the noble Baroness, Lady Meacher. Of carers who responded to the survey, 45% said that financial worries are affecting their health, and of those struggling to make ends meet, 41% are actually cutting back on essentials like food and heating. Some 26% are borrowing from family and friends, and 38% are using up their savings to get by, which suggests that the squeeze on carers' finances is not sustainable in the long term. As one carer said, "I am already on the edge. How can I be expected to get by with less?" We have to take on board the fact that increasing financial hardship is pushing some carers to breaking point—they may feel unable to continue caring and be forced to seek paid work and relinquish entirely their caring role. It is clear that this makes no moral sense. As my noble friend Lady Hollis would say, it is not decent. Given that carers are saving the nation £132 billion a year, this not only makes no moral sense; it makes no economic sense either. I should have thought the Government would really understand this. I beg to move.

Baroness Lister of Burtersett (Lab): My Lords, I rise to speak to Amendments 98 and 99, in my name and that of my noble friend Lord Kirkwood of Kirkhope, to whom I am once again grateful for his support.

Amendment 98 would delete child benefit from the list of benefits covered by the four-year freeze. Amendment 99 applies to child benefit the triple lock that currently governs the uprating of retirement pensions, a policy promoted by CPAG—again, I declare my interest as honorary president—and End Child Poverty.

Far from a triple lock, child benefit has been the victim of a triple whammy since 2010. It was first frozen for three years and then uprated by only 1%, and now it is to be subject to a four-year freeze. The upshot is that, according to CPAG's calculations, it will have lost 28% of its value between 2010 and 2020.

In other words, it will be worth less than between a quarter and a third of what it was when Labour left office. A graph prepared for me by Professor Jonathan Bradshaw shows how the gain in value under the previous Labour Government has already been nearly wiped out. It also shows how child benefit represented a much higher percentage of average earnings in the early 1980s under another Conservative Government. However, it was then subject to similar treatment to now, until it was rescued by Sir John Major, who understood why child benefit is important and why its value should be protected. Sadly, his successors do not appear to share his understanding.

I tabled these amendments to encourage a debate about the role of child benefit. I quite accept that it is rather ambitious to argue for the extension of the triple lock to child benefit in the current context, but there is a parallel with pensions. One of the justifications for its application to pensions, and for excluding pensions from the freeze, is that pensioners are among those least able to increase their incomes through work. Leaving aside how true this still is of younger pensioners such as myself, it is in some ways even truer of children. I know the response will be that their parents can increase their income through paid work, but as the judges in the benefit cap case made clear, children's rights cannot be sacrificed for any failing on the part of their parents.

Moreover, one of the reasons why the family allowance—the mother of child benefit—was introduced in the first place was that wages cannot and should not take account of the number of mouths a wage earner has to feed. In the jargon, child benefit enables horizontal redistribution from those without children, such as myself, to those with, and recognition that we all benefit from children being brought up as healthy, thriving citizens. It may be a bit of a cliché but children do represent our future. Of course, as most people do have children, for the majority it in any case represents redistribution over their own life course.

Child benefit thus has an important function in supplementing wages without the drawbacks associated with means testing. In particular, it cannot be accused of subsidising low-paying employers and it does not create poverty traps. CPAG's annual research into the cost of a child carried out by my colleague at Loughborough University, Professor Donald Hirsch, shows how the benefit represents core income, not an extra for families, so perhaps it is not surprising that, despite what the noble Lord, Lord Lawson, said in our first sitting about its unpopularity, a recent poll of 1,000 parents for End Child Poverty found that only one in 10 parents thinks that child benefit and child tax credit should not keep up with inflation. As many as two-thirds thought they should be increased in line with the cost of living or more, with virtually no difference between income groups. As I said, most people are parents at some point in their lives, and many grandparents will share these concerns about decent benefits for their grandchildren.

Moreover, because it is paid to the so-called "hard-working families" beloved of politicians, child benefit can act as a work incentive. It therefore makes no sense to freeze it when one of the primary objectives of the freeze, according to the impact assessment, is to increase work incentives, and it makes every sense to uprate it in line with average earnings. There is also a strong case for uprating it in line with personal tax allowances.

Those of us who have been in the game for a long time, such as my noble friend Lord Kirkwood, will remember that child benefit replaced child tax allowances as well as family allowances. At the time, there was a cross-party consensus that they should therefore be treated as akin to personal tax allowances when it comes to uprating policy. Unfortunately, that consensus soon broke down, but it does not invalidate the argument. For a Government who purport to care about child poverty and making work pay, it makes no sense to sink huge amounts of public money into raising tax allowances while freezing child benefit. Apart from anything else, the latter reaches parents in work earning below the tax threshold who gain nothing from further increases in personal tax allowances. Also, low-income parents earning above the tax threshold lose most of any gains from an increase in the personal tax allowances through cuts in means-tested benefits—a drawback that will increase under universal credit.

A constant thread running through our deliberations these last few days and weeks—however long it has been—has been how, despite government protestations, the best interests of the child have not been a primary consideration, as required by the UN Convention on the Rights of the Child. I fear that this Bill will be used as evidence against the UK when its record is interrogated by the UN committee next year. If at the very least the Government were prepared to remove child benefit from the four-year freeze, it would represent a degree of mitigation.

Baroness Sherlock (Lab): My Lords, I will not detain the Committee long as I made clear the Opposition's approach to the uprating of benefits on the last group of amendments.

Amendment 97 would allow benefits claimed by carers to be increased in line with inflation. My noble friend Lady Pitkeathley once again outlined very powerfully the problems faced by carers. I commend her brilliant, long and persistent attempts to put these things before the public and Ministers.

As the Committee heard in previous debates, there must be a real danger that the state will start to penny-pinch its way into driving carers out of caring, leaving those for whom they care to be the responsibility of the state. Throughout this Bill there seems to be little attempt to try to assess the costs to the public purse that might accrue to other parts of government, national or local, as a result of savings in the social security budget. My noble friend Lady Lister, in moving her amendment, advocated a triple lock for child benefit. I very much appreciated the history lesson for those of us who remember going back to where that is. The CPAG warned us that during the last Parliament child benefit lost 13% of its value against CPI, and 16% against RPI. Of course, that is far from the only cut affecting children. The levels of benefits and tax credits for children have faced repeated real-terms cuts.

[Baroness Sherlock]

I am using this amendment to ask the Government to do something very specific that they keep refusing to do—namely, to provide a cumulative impact assessment of the effect on particular categories of people of the changes that they are making. Whenever we ask them to do this, they put up two defences. The first is that it is all a bit complicated because everybody's circumstances are different, so they cannot be expected to produce a single cumulative assessment. Well, somehow the Treasury and the IFS have managed for years to assess the impacts of measures on categories of people, if necessary by modelling them in relation to different household sizes and compositions. We would be happy to get that.

The Government's second argument is that you cannot just consider benefits, you have to consider all the other wonderful things the Government are doing, such as the national minimum wage and tax allowances. That is fine. Include those in the models as well and we can all see who will be better off and who will not as a result of the combination of all these effects. A variation on that defence is that it is too hard because of the dynamic effects of the Government's wonderful welfare reforms. Translated, that means either the Government reckon that universal credit will make people better off or that they are going to make them so desperate that they will have to work because they will have no other choices. In neither case have the Government produced enough evidence, let alone hard evidence, that can be included in modelling and put in the impact assessment, because the evidence is not there—so they just say that it is all a bit hard.

I have tried repeatedly to get the Government to do this, as have other noble Lords, and we are getting nowhere at all. But there comes a stage where if the Government keep bringing forward legislation which repeatedly attacks the same people, and do not do this, there is a significant democratic deficit. It is hard to know how this House can begin to understand the implications of what is being done when the Government simply refuse to give us the evidence to do it. So I urge the Government to take advantage of this debate to agree at last to address the gaping hole in the evidence and commission some cumulative impact assessments.

9 pm

The Lord Bishop of Durham: My friend, the right reverend Prelate the Bishop of St Albans, cannot be here this evening. Therefore, I will speak largely on his behalf about Amendment 101, tabled by the noble Lord, Lord MacKenzie.

In the run-up to the general election, the Prime Minister was quick to stress that,

"the most disabled should always be protected".

He was, of course, quite right to do so. We might be operating in a time of limited resources but that does not negate our moral duty to ensure that the most severely disabled people in our society are protected from financial hardship. Those whom we cannot reasonably expect to support themselves financially should not be expected to shoulder the burden of austerity. They already face enough burdens of their own.

For example, motor neurone disease is a condition that progresses so rapidly and so violently that there is little time for contingency planning. Jobs are lost and circumstances change so quickly that those suffering from the disease are often forced into debt. In practice, this means ensuring that the most severely disabled people in the UK—those in the ESA support group—are protected from cuts such as those in the Bill. This, of course, is exactly what the Government promised to do in their manifesto in promising to exempt disability benefits from the freeze to working-age benefits.

I recognise that Her Majesty's Government have opted to exempt the ESA support group component from the freeze, but that component forms less than a third of the total provision made to the support group through ESA. The basic rate of ESA has not been exempted, meaning that those in the ESA support group, just like those in ESA WRAG and on JSA, will lose more than £250 a year in real terms by 2020.

The amendment tabled by the noble Lord, Lord MacKenzie, is an attempt to rectify this situation with regard to those in the support group. I realise that it is not a simple amendment. The Government cannot exempt certain groups from the freeze to the basic rate, for then it would cease to be a basic rate. The amendment therefore seeks to compensate the freeze through an uprating of the ESA support group component. Should the Government desire a simpler method, a commitment to uprate the ESA support group component by around 3% plus CPI would negate most of the effect of the basic rate freeze, while preserving the integrity of the basic rate.

The amendment would simply protect the most vulnerable—those who will never be able to go back to work—from the impact of the benefits freeze. If the Government want to be taken seriously when they claim to be protecting the most vulnerable disabled people in our society from financial hardship, support for this amendment, or one like it, should be a bare minimum. I hope that the Minister will give the matter serious consideration.

Baroness Evans of Bowes Park (Con): My Lords, I have already set out why we believe the freeze of benefits is necessary so I will move directly to the amendments.

Amendment 101, tabled by the noble Lord, Lord MacKenzie, seeks to place into legislation a requirement for the support group component of employment and support allowance to be uprated by an additional amount above the amount it would otherwise be uprated by. This additional amount would be equal to the difference between the current main rate of employment and support allowance and that rate if it were uprated by inflation.

I understand the motivation behind the amendment, and the comments of the right reverend Prelate, but I will explain why we have included the personal allowance rate in the freeze. Personal allowance rates are aligned across all income-related benefits, including ESA, and are designed to provide a basic standard of living to those who are not in work but at a level that does not disincentivise moving into work. Those in the support group also already receive an additional amount, the support group component, which we have specifically

exempted from the freeze. This additional amount is in recognition of the fact that this group of people is further from the labour market. In addition, many of those in the ESA support group who are being targeted with this amendment will be in receipt of disability living allowance or personal independence payment, which we have also exempted from the freeze. Again, these benefits are specifically aimed at contributing to the additional costs of disability, and will continue to increase in line with inflation. While I agree with the right reverend Prelate that we absolutely must provide suitable protections for disabled people, we do not support this amendment because the clause already sets out appropriate exemptions.

Amendment 97, tabled by the noble Baroness, Lady Pitkeathley, seeks to exempt carers from the freeze by ensuring that any of the relevant sums of working-age benefits are increased in line with inflation if they are claimed by persons who are regularly and substantially engaged in caring. As my noble friend and I have said, we share in and completely agree with the noble Baroness's words about the great and vital contribution made by carers. That is why we have exempted carer's allowance from the freeze, as well as carer's premiums within other working-age benefits. We have ensured that carers are central to the Government's reform to care and support, with strong rights for carers in the Care Act 2014. Since 2010, the rate of carer's allowance has increased from £53.90 to £62.10 and we have further increased the earnings threshold for carers by 8%, to £110 a week net of certain expenses.

Amendments 98 and 99, tabled by the noble Baroness, Lady Lister, and the noble Lord, Lord Kirkwood, would remove the uprating freeze for child benefit which the Bill seeks to introduce. Further, Amendment 99 would instead place child benefit under a triple lock, meaning that it would rise by whichever was highest: the rise in prices or earnings, or 2.5% each year. This would go beyond existing legislation and create an unfunded spending commitment. The noble Baroness, Lady Lister, mentioned the CPAG research on the loss of value in child benefit. However, its methodology assumes that child benefit is uprated by RPI, which is obviously now an updated measure. Indeed, since 2008 child benefit has risen by more than 10%.

There is a parallel between Amendment 99 and the triple lock that the Government have in place for pensioners. In 2008, the basic state pension was at its lowest level relative to average earnings since the 1970s. The triple lock has turned this around and it is now one of the highest levels relative to average earnings in two decades. We believe it is right to continue to protect pensioners, who are often on fixed incomes and have paid into the system throughout their working lives. However, as I have said, it is important to make savings on welfare, including on child benefit. The freeze makes a contribution to forecast savings, given the annual spend on this benefit, so I am afraid that we cannot support these amendments.

The noble Baroness, Lady Sherlock, asked about a cumulative impact assessment. We have already provided detail on the impacts of the various measures and the Treasury published an extensive analysis alongside the Budget. A cumulative analysis for the Bill alone would take the measures out of the context of the wider Budget package, where analysis has shown that a typical family working full-time on the national living wage will be better off by the end of the Parliament.

I believe that we have ensured that we have in place protections for the most vulnerable, balanced against the need to make welfare savings. I once again thank noble Lords for bringing forward these amendments but we do not believe that they are necessary and I urge noble Lords to withdraw or not press them.

Baroness Pitkeathley: My Lords, I thank all noble Lords who have spoken in this short debate. As my noble friend on the Front Bench reminded the House, I have a long history in bringing carers' issues before Parliament. In the course of that long history, I have learned that however little progress you seem to be making you have to keep going. I will keep going, as we all will, but I ask again that the Government think before Report about the effects of these policies—unintended consequences, perhaps, on the most vulnerable in our society. If, for example, we make carers so impoverished and oppressed that they give up caring, where is the gain in that for either society or the individuals? I am struck, as I have been so many times during the course of the Bill, by the parallel universes that we appear to be inhabiting. People from all around the House say that this is what is going to happen to vulnerable people and that here is the reality of the situation, as we hear it; and the Government say, "It's all fine and we've done this to ensure that it is". I am depressed but I beg leave to withdraw the amendment.

Amendment 97 withdrawn.

Amendments 98 to 101 not moved.

Clause 9 agreed.

Clause 10: Freeze of certain tax credit amounts for four tax years

Amendment 102 not moved.

Amendment 103 had been withdrawn from the Marshalled List.

Clause 10 agreed.

Schedule 1 agreed.

Clause 16: Loans for mortgage interest etc

Amendment 103A

Moved by ***Baroness Sherlock***

103A: Clause 16, page 15, line 7, at end insert "including outlining the number of weeks a person must wait after the need arises in order to apply for a loan under subsection (1), which must be no longer than 13 weeks"

Baroness Sherlock: My Lords, I rise to move Amendment 103A and to speak to Amendment 104AZA, which are in my name and that of my noble friend Lord McKenzie of Luton. In doing so, I remind the Committee of my declared interest as a senior independent director of the Financial Ombudsman Service, in case it proves relevant to the later debate. I will speak at

[BARONESS SHERLOCK]
slightly greater length than I have recently because there are some quite complex issues involved and I need answers to questions. I hope the Committee will bear with me.

At present, owner-occupiers receiving income-related benefits may claim additional help towards their mortgage interest payments in the form of support for mortgage interest, or SMI. The payments are normally made direct to the lender and are intended to ensure that someone who is struggling to pay their mortgage does not end up having their home repossessed, causing misery to them and leading, most likely, to their claiming larger amounts in housing benefits to rent an alternative home. This Bill will end the SMI scheme and empower the Government to create a loan scheme as an alternative, with the loan secured by a charge against the property. I understand that the intention is to have the scheme administered by the DWP, with the recovery run by a third-party organisation which will be able to charge fees to claimants to cover the cost of administering the loan scheme.

In the impact assessment, the Government argue:

"Without the policy change there is an incentive for households to allow the taxpayer to take the burden of their mortgage without taking steps to repay it themselves".

The only way to get this benefit is for your income and savings to be so low that you qualify for a means-tested benefit such as income support, jobseeker's allowance, ESA or pension credit. The idea that people poor enough to qualify for those benefits could pay off their mortgage but are choosing to allow the taxpayer to do it instead seems unlikely. At present, claimants have to wait 13 weeks from first claiming a qualifying benefit before they can apply for SMI. That waiting period is to be extended to 39 weeks, and Amendment 103A seeks to restore the 13-week waiting period. The Minister will doubtless say that it had previously been 39 weeks, under the last Labour Government, but in 2009 the then Government brought it down to 13 weeks as a result of the economic situation.

Peers may have seen the helpful briefing from the Money Advice Trust, StepChange, the Building Societies Association and the Council of Mortgage Lenders, all of which strongly support this amendment to retain the 13-week period. As they put it:

"Lenders and advice agencies alike know from experience that early intervention is the key to resolving financial difficulty".

They say that the Bill's extension of the waiting period to 39 weeks risks making it "significantly more difficult" to resolve mortgage problems. The change would mean that claimants would be well over six months in arrears with their mortgage by the time SMI kicks in. As those organisations point out, two separate pieces of research, commissioned for DWP and DCLG, show the 13-week period has been effective in holding down arrears and repossessions—which, after all, is of course the point of the scheme.

In its evidence on the Bill in another place, the Council of Mortgage Lenders said:

"If the waiting time is extended, as planned, we believe that it will result in more cases of repossession … Extending the waiting time will only cause additional consumer detriment".

It points out that interest rates have been so low for so long that probably 2 million borrowers have never experienced a rate rise. It is our view that the market is far from stable and that this is a very bad time to increase the waiting period, especially at the same time as abolishing the grant scheme and moving to a loan option.

Amendment 104AZA seeks to retain the SMI grant scheme for claimants who are in receipt of pension credit—in other words, our poorest pensioners. This is what I like to call the reverse Salisbury/Addison amendment: we are helping the governing party to fulfil a manifesto commitment which seems temporarily to have slipped its mind. The Conservative manifesto explicitly said that a Tory Government would protect pensioner benefits. Yet almost half of those getting SMI are of pension age and a disproportionately high number of claimants are pensioners. In fact, the impact assessment says that,

"SMI claimants are considerably more likely to be over pension age than mortgage payers in general".

9.15 pm

In its briefing, Age UK notes, "Older people will be very reluctant to agree to an increasing debt on their property. So even if they have equity in the property, they will not consider the loan. Instead, people may restrict essential spending, putting themselves at risk". This cannot be viewed as a way of dealing with a temporary problem in the case of pensioners. We must assume that people of pension age will not be going back into work, so their finances are unlikely to improve—indeed, quite the reverse. If so, the only effect of this policy is essentially to mount a raid on what is usually the only asset of poor pensioners. It is also their safety net in case they need to release equity for care or other emergencies. People who have paid into the welfare state all their life so that it could protect them in bad times and in old age will now be told that their home is not there for them.

I have a number of questions for the Minister. On access to the loan scheme, can he assure us that anyone in receipt of a qualifying benefit will be entitled to a loan, whether or not they could have expected in future to have enough equity in their home to act as security for the debt? Secondly, where will this charge come in the order of priority if other debts are secured against the property? I imagine that the noble Baroness, Lady Manzoor, will deal with this point when speaking to Amendment 104, but there must be a concern that if this were to outrank claims by other lenders, especially for local authority care costs, that could have significant consequences for the ability of older people to access essential services. A similar question exists in relation to older people who may wish to use equity release to fund house repairs or care costs as the NHS and local authority funding continue to be squeezed.

Thirdly, if the loan exceeds the equity, could that mean that when the property is sold, the claimant is left with literally nothing? Could an estate find that there was not enough left to pay for the funeral of the deceased? Did the Government consider, for example, having a cushion left untouched, in the way that you are allowed to have some savings when you apply for housing benefit or pension credit? Fourthly, if the loss

of SMI means that someone will no longer be entitled to pension credit, will they then lose access to passported benefits, such as cold weather payments or help with health costs or access to funeral payments from the social fund?

Fifthly, and most importantly, people will need high-quality advice to help them work out whether it is in their best interests to effectively mortgage their property, with charges being added on to the debt and interest accruing, potentially for decades. It might be better in some cases to find another source of cash if they have access to one. It may or may not be the best thing for a claimant to hang on for help for 39 weeks if they may never be able to manage it, so people will need high-quality advice.

I understand that the advice will not be regulated because it is government advice, but I have some very specific questions. First, will the advice to the claimant be free? Will it be tailored, personalised advice from qualified advisers—in other words, not just generalised guidance but specific advice on whether that person in those circumstances should consider taking this out? Thirdly, during the debate in another place, the Minister said that DWP would administer and provide loans but that the advice and recovery would be provided by a third party. Is that still the case? If so, will the advice providers be independent of the body operating the loan scheme and those charged with recovering the debt? In other words, can we be assured that there will be no conflict of interest? Is there any redress for customers in the case of bad advice causing them detriment? Will a face-to-face option be available, at least for vulnerable clients?

The reason I have gone into this in such detail is that effectively all the Bill does is to abolish the grant scheme and empower the Government to create a loan scheme, but there is no detail. The Delegated Powers and Regulatory Reform Committee expressed concern at the fact that the draft regulations for the SMI loan scheme are not available to the House, given that the plan is that the scheme be set up by negative resolution.

The Government's argument in the memorandum was that the negative procedure is appropriate because the primary clause will have been fully debated as part of the Welfare Reform and Work Bill, including debate on the contents of the regulations which will be made under this power. But regulations are there none. That is why I particularly want answers to these questions, despite the lateness of the hour.

Finally, have the Government been persuaded by the DPRRC and will they agree, as it recommends, that all regulations under the clause will be subject to the affirmative procedure? If so, will the Minister bring forward a government amendment to this effect at Report? I beg to move.

Baroness Manzoor (LD): My Lords, I shall speak to my Amendment 104, which is fairly self-explanatory. I am grateful to the noble Lord, Lord McKenzie, who is not in his place, for adding his name to it. It relates to loans for mortgage interest.

As we have heard, from April 2018, proposals set out in Clause 16 will mean that owner occupiers in receipt of income support will receive the offer of a loan secured on their property to help them to meet their mortgage interest payments, rather than a benefit, should they need it, to stay in their home. If there is insufficient equity to repay all the loan and interest, any remaining debt will be written off.

Age UK is right to say that we need to understand more about the people who will be affected and their likely response to the new proposals. For example, will it be possible to place a charge on all types of property, including leasehold property, those in shared ownership and sheltered housing? How will the system work if people have other loans secured on the property or have already taken out an equity release plan?

The Government have already said that they will make regulations about advice to claimants before claimants take a loan. That is welcome, but can the Minister clarify who will provide the advice and who will pay for it? Will it be free to claimants, and will it be independent and impartial, with no conflicts of interest—as the noble Baroness, Lady Sherlock, mentioned? How will the Government ensure that they do not create perverse incentives for the provider? Will the Minister also confirm that the financial advice given to claimants will be independent of the lender?

However, the purpose of Amendment 104 is to determine at what point any outstanding loan or mortgage interest, as proposed in the Bill, is paid off. I understand that the loan will be repaid when the property is eventually sold, rather than having to be paid off when the person receiving the loan gets back into work. However, there may be a series of other debts to be paid on the house when it is sold, the most obvious being the mortgage. It is therefore important to understand in what order creditors line up—i.e., who gets paid first, second, third, et cetera—and where the new mortgage interest loans sit in that queue.

My amendment focuses specifically on where it sits in relation to any outstanding payments for social care that may need to be paid. Under the Care Act—although not yet brought into force—a person can defer payment of their social care bills to the local authority during their lifetime, with the balance being paid off through their estate after their death, i.e., primarily through the sale of their home. My amendment seeks to clarify whether loans for mortgage interest or the deferred payments are paid back first. We on these Benches strongly believe that it should be the deferred payments, as this is money for the local authority which is vital to funding future social care needs. Will that be the case?

The Government also need to show that they are committed to helping people to meet the costs of social care by not delaying the implementation of the Care Act, a Lib Dem achievement in government. My amendment states:

"The regulations must provide that where—

(a) repayment of the loan is to be made based on the proceeds of sale of the person's home, and

(b) the person has an outstanding deferred payment agreement under section 34 of the Care Act 2014 (deferred payment agreements and loans),

the repayment of the loan may not be settled until any amounts payable to the local authority under the deferred payment agreement have been settled".

[Baroness Manzoor]
Otherwise, of course, the money just ends up with the Treasury, with no recourse for local authorities to recoup any moneys due to them for other people who might need help and support with social care costs in the future.

Lord Curry of Kirkharle (CB): My Lords, I shall speak to Amendment 104A. I very much support the intentions of this Bill, but, of course, there are inevitably special cases that would be adversely affected by a change of this magnitude. The Government have been very clear in their intentions for this change, and I commend them for that. What I seek to amend, however, is not the principle of the clause, but its application. More specifically, I seek to amend this clause so that those who are in receipt of disability living allowance, or carer's allowance and income support, are exempt from this change so that they can continue to receive support for mortgage interest as a benefit, not as a loan.

This clause was initially brought to my attention by a friend who attends my church. This man purchased a house in 2006 and was financially stable and secure. However, two years into his mortgage, he was diagnosed with a detached retina, which rendered him blind. As a consequence, he has had to cease working. He has been entitled to support for mortgage interest, due to being in receipt of disability living allowance, and carer's allowance, as his wife is now his carer. With the help of SMI, his mortgage would have reached completion in 2030. At this point, he planned to downsize, using the extra equity to pay off other loans accrued since he was diagnosed as blind to equip his house as a result of his disability. However, the implications of the proposed change from interest support to a loan mean that 12 years' worth of interest and a small capital contribution will need to be repaid. If interest rates stay as they are for the whole period, my friend, on top of his mortgage, will have to pay the Government back £63,000, the sum contributed by SMI as a loan, and £15,000 for the 5% interest on the interest owed each year. As I said earlier, I am in support of the clause in principle, but strongly urge the Government to reassess and reconsider applying the changes to those who are on disability living allowance.

My friend will be for ever incapable of working, and so would never be able to repay the loan. It is not right that such a burden should be placed on him and others like him—he is not unique—who receive disability living allowance. This change could potentially result in my friend losing his house and being forced to move into government housing, which would ultimately cost the taxpayer much more. Have the Government fully assessed the long-term implications of this? Surely, a successful policy is not one that saves money in one area, only for more to be spent elsewhere.

In conclusion, I repeat that I support the aims of Clause 16, but feel that it is entirely inappropriate for those on disability allowance to be treated in the same way as those on jobseeker's allowance. The assumption is that those on jobseeker's allowance will eventually get a job and be able to pay their mortgage in full themselves and also to pay back the loan. Those on disability allowance, however, might never be able to pay it back if they are for ever prevented from working. On these grounds, I urge the Government to reconsider the wording of Clause 16 and allow those on disability allowance or carer's allowance to be exempt from the changes.

Lord Young of Cookham (Con): My Lords, I listened to most of the debate this evening and have heard the arguments on most of the amendments. Without any discourtesy to those who have proposed these amendments, it seems to me that the case for these are less compelling than the case for some of the amendments that were discussed earlier. There is one fundamental reason for this: what this clause does is basically to convert what is at the moment a grant into a loan. Of itself, it does not affect the quantum of support from taxpayer to recipient: it simply converts the terms. Therefore, to my mind, this is a much less painful way of reducing public expenditure than some of the other measures of the Bill that directly affect the quantum of support from taxpayer to beneficiary. Perhaps it is for that reason that the Opposition's reasoned amendment to the Bill in the other place said:

"That this House, whilst affirming its belief that … a benefits cap and loans for mortgage interest support are necessary changes to the welfare system".—[*Official Report*, Commons, 20/07/15; col. 1264.],

specifically excluding this bit of the Bill from their general reservations. Any measure that reduces the quantum of saving from this particular clause just puts more pressure on some of the other measures in the Bill which directly affect the support that a beneficiary might get.

Turning to the point made by the noble Baroness, Lady Sherlock, in a sense she gave the case away by conceding that 39 weeks was the period for which people had to wait for roughly 10 years under the last Labour Government. If 39 weeks was appropriate when there was not the pressure that we have on public expenditure today, then it is certainly appropriate when we are trying to make necessary savings.

9.30 pm

On Amendment 104, the noble Baroness, Lady Manzoor, had a good point. Can the Minister clarify what would happen in the case where the person had an outstanding deferred payment under this clause but then went into care and incurred a debt to the local authority? The Government would have registered their interest, as it were, before the local authority, so when the property was disposed of would they have precedence over the local authority? I hope he can clarify that.

Finally, I understand the reason for seeking to exempt those in receipt of pension credit but if one thinks it through one sees that the beneficiaries will be those who benefit from the estate of the pensioner when he or she dies. The pensioner will not be directly affected. If one must make difficult decisions and decisions that are fair to the taxpayer, it seems that in this particular case the interests of the taxpayer should take precedence over those beneficiaries of the estate of the pensioner when he or she dies.

Baroness Hollis of Heigham (Lab): My Lords, I will just ask a few questions slightly wider than the amendments tabled. The Minister will know that we have coming towards us a Housing and Planning Bill that will extend extensively the right to buy, treat starter homes as part of affordable housing and seek to both extend owner-occupation and push it further down the income scale to people who, at the moment, are not able to access it in terms of both deposit and repayments. The result of that will almost certainly be greater risk of default and problems in maintaining mortgage payments, a more precarious relationship to the world of work, and periods therefore where these people do not have reliable income.

The questions are very simple. Has the Minister talked to his colleagues in the DCLG about this? Is he aware that the demand for this sort of support will almost certainly increase substantially in years to come? What assumptions is he making about the implications of that money which must be made available, perhaps for long-term loans, to sustain people such as those who are fairly marginal to the owner-occupied market coming into it—possibly with the best of reasons, but none the less they will struggle to sustain their repayments? How much connection is there between this policy of the DWP and the work being pushed by the Minister's colleague Greg Clark in the other place through the DCLG?

The Minister of State, Department for Work and Pensions (Lord Freud) (Con): My Lords, I start by responding to Amendment 103A, which would keep the waiting period at 13 weeks. The background to this is well known. Claimants receiving income-related benefits may claim help towards the cost of their mortgage interest payments. Apart from those receiving state pension credit, claimants must serve a waiting period before entitlement to help with mortgage interest begins. Before 2009, the waiting period for the majority of working-age claimants was 39 weeks. In January 2009, temporary arrangements were introduced that reduced this period to 13 weeks. This was to provide additional protection to those who lost their jobs during the recession. At the same time, the maximum value of mortgage for which support is available, known as the capital limit, was doubled to £200,000. In the summer Budget, it was announced that from April 2016 the waiting period will return to the pre-recession length of 39 weeks although the capital limit of £200,000 will be maintained.

This amendment would remove the current broad powers in the Bill that allow the waiting period for support for mortgage interest to be set out in regulations, replacing them with a narrowly defined 13-week waiting period, but I suspect it is a probing amendment. We wish to retain the ability to act quickly in different circumstances, and putting this in primary legislation would prevent that.

Let me be clear about why we help owner-occupiers with mortgage interest payments. The purpose is not to secure their asset or to reduce any outstanding payments owed to lenders. The purpose is simply to mitigate the risk of repossession. The CML now says that it believes the 39-week waiting period will drive repossessions, but it is unable to quantify the number of repossessions. We will work with the CML to assess any such impacts in terms of repossessions, but we do not believe that they will be significant, particularly at the current level of house prices. There is no evidence to suggest that lenders will do anything other than exercise the same degree of forbearance that they did prior to 2009 when the 39-week waiting period was last applied, particularly as we are maintaining the higher capital limit.

Amendment 104 seeks to change the way in which SMI loans are recovered from the equity in the claimant's home. The intention is that a charge registered by a local authority to reclaim deferred payments for social care would always take precedence over a charge registered by the DWP to recover an SMI loan. As the Bill stands, the Government can require that a loan be secured by a charge over the claimant's property. Under provisions in the Land Registration Act 2002, charges are recovered in the order in which they are registered. If the SMI charge was registered on the property before any deferred payment arrangement, it will have prior claim to any equity when the property is sold. The legal charge will therefore be subordinate to any existing charges on the property, including the mortgage. That answers one of the questions asked by the noble Baroness, Lady Sherlock.

We envisage that advice would normally be given via a telephone conversation and would cover the following areas: the claimant's financial position now and in future, their understanding of the terms of the loan, and encouragement for them to engage with any heirs they might have. The delivery of that financial advice will be outsourced to a third-party provider.

Section 34 of the Care Act 2014 obliges local authorities, in prescribed circumstances, to offer DPAs. The intention is that people should not be forced to sell their home in their lifetime to pay for their care. If there is no equity in the property—a subject raised by the noble Baroness, Lady Sherlock—the family would be able to apply for a funeral payment from the Social Fund.

I pick up on the question asked by my noble friend Lord Young. Local authorities are not required to make such an offer where there is a pre-existing charge on the property. Recipients of SMI loans by definition have a pre-existing charge—their mortgage—so in such cases there is no obligation to offer deferred payments. The registering of a charge in respect of an SMI loan does not, therefore, directly interfere with the policy intent of the Care Act.

The noble Baroness, Lady Manzoor, asked about the types of property on which it is possible to secure a loan. Charges can be secured on the claimant's equity share in shared ownership and on leasehold properties.

I turn back to local authority provision. Local authorities are not precluded from offering DPAs where there is an existing charge so long as they are satisfied that there is adequate security. This means that they may still consider offering deferred payments if, after taking account of the outstanding mortgage, the remaining equity would be sufficient to cover an individual's likely care costs. It is arguable that in some circumstances the existence of a charge in respect of an SMI may make authorities less inclined to agree to defer payments in such cases. However, it is important

[LORD FREUD]
to note that deferred payments are available only where the person enters residential care. In such circumstances, payments of income-related benefits cease, including payments of SMI. As the claimant will have no means to meet their mortgage payments, it is probable that the property would have to be sold anyway. I should be clear that the position as I have just described it is not a consequence of changing SMI into a loan; it is inherent in the current system.

Amendment 104A is intended to exempt disabled claimants from the provision that introduces SMI loans and allow them to continue to receive this help in the form of a non-recoverable benefit. The purpose of providing SMI is to protect owner-occupiers from the risk of repossession and allow them to remain in their homes. In almost all cases, these payments are sent direct to lenders rather than to the claimant. When Clause 16 comes into effect, the level of support will remain the same as now—the point made by my noble friend Lord Young—and payments will continue to be sent direct to lenders. Neither lenders nor claimants will see any difference in the way the system works, so exempting any particular group would not have any impact on the level of protection they were afforded. The difference is that under the loans scheme the payments will be recoverable, but recovery will not be sought until the property is sold. So the day-to-day income of disabled people will not be affected.

SMI supports individuals in the accrual of a significant asset. Many taxpayers who are providing that support cannot afford to buy their own homes. It is only fair that this support is recouped where equity is available when the property is sold. I do not believe there is a sustainable argument that people with disabilities should be exempted from refunding some of the equity that the taxpayer helped them to accrue, while other people supported during periods of financial need should not.

The amendment is defective, in that it does not make a consequential amendment that would continue existing SMI entitlement for the group that the amendment is designed to protect—but let us leave technical issues aside.

Lastly, Amendment 104AZA would prevent the Government from changing support for mortgage interest into a loan for those on state pension credit, and allow them to continue to receive help with their mortgage interest as a benefit rather than a loan indefinitely. This would be unsustainable and unfair on the taxpayer. As I have previously said, it is not right that taxpayers, many of whom cannot afford to buy their own home, are subsidising the acquisition of a substantial asset. Pensioners will have access to the same level of support for mortgage interest payments as the current system provides, and the Government will not recover the loan until the property is sold. With pension credit claimants, it is most likely that this will be on their death and therefore will impact not them but the beneficiaries of their will.

Pensioners will have the same access to support that the current system provides, and the Government will seek to recover the debt only up to the level of available equity when the property is sold. In response to questions from the noble Baronesses, Lady Sherlock and Lady Manzoor, I say that any outstanding debt at that point will be written off. Owner-occupation involves the acquisition of a potentially valuable asset that often increases in value over time. It is right and sustainable that the taxpayer reclaims their contribution to this asset.

The amendment would also introduce a waiting period for pensioners before they could receive help with their mortgage interest payments. There is currently no waiting period for help with mortgage interest for pensioner claimants, and it is not the Government's intention to introduce one.

I cannot go into great detail on the questions from the noble Baroness, Lady Hollis, but to the extent that more support will be required for people, this is a far more sustainable way for the state to provide it than through grants. We are still considering our response to the DPRRC line on whether the procedure is negative or affirmative. With these explanations, I urge noble Lords not to press their amendments.

The Lord Bishop of Durham: I have genuinely been listening to the debate. I believe the Minister did not answer one point raised by the noble Baroness, Lady Sherlock, which struck me as important. The Minister assured us that the financial advice would be independent and outsourced to a third party, but the noble Baroness's question was not whether it would be outsourced but whether it would be independent of those who would provide the loans, so that independent advice would be separate from the loan giver. I am not sure that the Minister assured us that they would be separate.

9.45 pm

Baroness Sherlock: Before the Minister replies, I have a few other questions; perhaps he can answer them together. I thank the right reverend Prelate for clarifying that. Indeed, I wanted to be sure that the advice was independent of the debt recovery under the provisions. I apologise if I missed any of the Minister's answers—I tried to tick them off as I went along, and he did pretty well, so I thank him for that.

First, can the Minister clarify that anyone in receipt of a qualifying benefit will be entitled to a loan whether they have or could be expected in the future to have any equity, or certainly enough equity to cover the loan? Secondly, if somebody loses SMI and as a result loses pension credit, will they lose access to passported benefits as well?

On the question of advice, the Minister described what subjects the advice would cover but I was not quite sure of the level of personalisation. I would put money on the fact that the pensioner will say, "These are my circumstances—should I apply for this?". Will the adviser be able to say, "I advise you to do it—yes, you should", or "I advise that you shouldn't", or will the advice be much more general, like the kind of money advice we are talking about in pension schemes? Did the Minister say that it was free to the claimant? I am sorry, I may have missed that. Finally, there was the question on redress for customers in the case of bad advice.

While the Minister is reflecting on those, I will respond to a couple of points made in the debate. I thank all noble Lords who contributed. I welcome the

noble Lord, Lord Young, to the debate, and thank him for what I choose to regard as the implied compliment that I had some good arguments earlier in the evening, even if I did not do so well just now. In response to the points he made, I find persuasive the research done for two different government departments that the move to 13 weeks had been effective in holding down arrears and repossessions. That was government-commissioned research. I may be wrong about that but it seemed to be one of the most compelling arguments for not going back to 39 weeks. But presumably the Minister will say that they will monitor and evaluate it, and I will be interested to hear what they say.

Both the noble Lord, Lord Young, and the Minister said that in the case of pensioners the beneficiaries are essentially not the claimants themselves but those who will benefit from their estate, but of course it is often the case that that is not strictly true. I live in Durham, and in County Durham plenty of people have houses which are, frankly, worth not very much at all by London standards, so they have very little equity in them. If this kind of debt prevents them accessing all that equity, it may mean that they will not have equity available to them which they might need to get at for care costs or other non-NHS covered support costs of different kinds. So it does potentially have an impact on the pension in their lifetime, not just on those to whom they bequeath the house.

Finally, I should have reiterated something right at the start. The Minister was kind enough to give his officials the freedom to brief us on the session, and I had a particularly helpful conversation on this area. I know it might not seem like it, since I have rewarded them by coming back with lots of questions, but in fact it has been very helpful and has meant that in this debate I have tried to focus more on how this will work than adopting a more combative style. So I appreciate that and I look forward to the answer to those questions.

Lord Freud: I do my best. On the independence of people providing the advice, it will be independent of those providing the loan.

Baroness Sherlock: And the recovery?

Lord Freud: Yes, I think that it is likely to be independent of the recovery. Yes—it is now. On the point about passported benefits, we are working to ensure that individuals who are no longer entitled to an income-related benefit as a result of the introduction of the SMI loans will have access to passported benefits. We are scoping out what the advice will look like and what we expect it to cost. Until we start the contracting process, I cannot prejudge whether SMI advice will be free. So that is outstanding.

I think that I have answered most of the points. If not, I will hit the typewriter—the Kremlin uses only typewriters because computers can be hacked. On the point about the number of weeks, I think that the noble Baroness will find that the level of forbearance with 39 weeks was very high and that very limited numbers of houses were repossessed by the mortgage providers, so I think that that will provide her with some reassurance.

Baroness Sherlock: My Lords, I thank the Minister for those answers and for the little glimpse that he has given us into the security that goes on within the DWP. I shall certainly take that home with me.

I should probably say for the record that if indeed one of our amendments would have had the effect of making pensioners wait to access help with mortgage interest payments, that certainly was not our intention. I feel that I should clarify that. However, in the light of the answers that the noble Lord has given, I beg leave to withdraw the amendment.

Amendment 103A withdrawn.

Amendments 104 and 104A not moved.

Clause 16 agreed.

Amendment 104AZA not moved.

Clauses 17 to 19 agreed.

Clause 20: Expenses of paying sums in respect of vehicle hire etc

Amendment 104AA

Moved by ***Lord Kirkwood of Kirkhope***

104AA: Clause 20, page 19, line 25, at end insert—

"( ) Any relevant provider assisting with any provision for the expenses of the Secretary of State under subsection (2)(a) shall provide an annual governance report to Parliament or the Public Accounts Committee of the House of Commons, detailing—

(a) the remuneration of its directors;

(b) a register of interests; and

(c) the transparency of its board meetings."

Lord Kirkwood of Kirkhope (LD): My Lords, I hope not to detain the Committee for too long in the consideration of the administration of DWP matters and other things.

I am grateful for the support of the noble Lord, Lord Rooker, on this amendment, and it is to him that I acknowledge my interest in this matter. I was minding my own business at one of the famous uprating order debates, which I always attend, when the noble Lord used the occasion in an exemplary fashion. The man is a parliamentary genius at finding niches that come up only every so often, and in this case it is our old friend the Social Security Administration Act 1992. It does not come up that often but it needs to be explored a little more. I shall try to do so briefly but it is important—or at least I believe that it is.

The amendment seeks to insert a requirement for any relevant provider—for "relevant provider", under the current circumstances noble Lords should read "Motability"—to provide governance reports to Parliament detailing certain matters. The amendment is important because the structure under which Motability provides its service is not straightforward; it is quite complicated. I am choosing my language carefully.

I make it clear at the outset that the Motability service has been absolutely invaluable to those whom it seeks to serve—namely, claimants who are eligible for the higher rate of the DLA mobility component and the enhanced rate of the personal independence

[Lord Kirkwood of Kirkhope]
payment. The leases for the cars, motorised wheelchairs, scooters and other devices that it provides are a lifeline for hundreds of thousands of our citizens.

Before I go into the questions that are on my mind, I ask the Minister in his response to perhaps take a moment to explain exactly what Clause 20 is seeking to do in terms of the mechanics of reclaiming the expenses of paying sums in respect of vehicle hire. It is a puzzle to me that we are only now getting round to this. The scheme has been in operation since 1977. I do not know how much expense is being reclaimed here, but we are using the 1992 Social Security Administration Act. Therefore, it occurs to me that if there were expenses that should have been recovered, perhaps the 1992 Act would have been the best place to put that, and not the 2015 Welfare Reform and Work Bill. I am told that it might be as much as £1 million. Is that £1 million a year? How is it being recovered? Can the Minister give us as much information as possible on how Clause 20 is designed to operate?

As I understand it, the department makes available to Motability, as a relevant provider, the details of those who have the eligibility qualifications for these two disability benefits in order that an offer may be made to them by Motability. Motability is a long-established charity run by very distinguished people and is subject to the normal rules and regulations of charities. It also has a secondary charity, although I am not quite sure what it is designed to do, called the Motability Tenth Anniversary Trust Ltd, and it has a relationship with Motability as a charity. So there are some complexities in the first line of the operation. I hope that the department understands this better than I do. I am trying to make sense of all the individual parts of the machinery that is put in place.

The charity certainly has substantial resources available to it. Otherwise, it would not be able to make the generous and important offer of transitional support schemes. It has made grants of £150 million and £25 million in the last two financial years respectively to try to take some of the pain out of the removal of eligibility at the higher rates for some of the clients who are being reviewed under the government policy of reviewing DLA and transitioning it into personal independence payments.

What I also struggle to understand is the relationship between the charity and the operations company, which is a private company that carries out the work on behalf of Motability. Page 86 of the latest annual report and accounts for 2015 records that, for the highest paid director, the aggregate emoluments in respect of qualifying services totalled £944,719. Colleagues might now begin to understand the extent to which these companies and charities have, one could say, blossomed and developed. They certainly have grown to an extent that is perhaps not widely understood. The restricted reserves of the operating company are in the region of £2 billion; the annual turnover is £3.9 billion; and the asset base is some £7 billion. So this is a very big business. It even has a rating from Moody's and Standard & Poor's as an A+ investment risk, and it regularly raises money on the bond market.

10 pm

The worry for me is that all these individual elements have their respective regulators. The DWP obviously is able to see what it is doing in terms of the recommendations or the information that is passed to those eligible for these higher DLA benefits. The charity obviously is responsible to the Charity Commission for everything it does, and I am sure that it complies with the charity rules. Motability Operations is responsible, I guess, to the Financial Conduct Authority and various other Bank of England regulators for companies operating effectively at a City company level—almost banks. Indeed, the banks are the shareholders of the operating company, which means they get regulation from that direction.

My questions are about whether claimants are getting the full value of the assignations that they make. What are the tender processes that allow other providers to compete in this market? How does one become a shareholder in the organisation when all shares are held in the bank? Most of all—this is the real reason for asking for some responsibility in reporting to Parliament—who oversees the public interest in what is being delivered in the round? I am sorry that that is a bit technical. It is late at night and I understand that. But this is important. I hope that the Minister will explain a little. If he would like to do that in a letter to the noble Lord, Lord Rooker, and me, that might save some time. The chance to consider some of these issues only comes up every so often. I hope the Minister does not mind that I am detaining the House slightly on what I consider to be an important issue.

Lord Rooker (Lab): My Lords, I support the noble Lord, Lord Kirkwood. He was quite friendly towards me about raising this matter in Committee. It was the noble Lord who drew my attention to Clause 20. I had not known about it. As will become clear, it is to the Minister we owe this debate because he alerted us to these banker-sized salaries in answering a question a couple of years ago.

In the 1970s, I was in the Commons when the scheme to replace the old invalid trike was set up, so I am aware of the positive change. When I had a proper job before I was an MP, I used to work in Thames Ditton as production manager at a loudspeaker company. AC Cars Ltd, which was in Thames Ditton, built what was known as the invalid trike, the single seater. Like my noble friend I make no comment on the Motability scheme, save to say that it has given access to mobility for some 4 million people over the years. I hope that it will for years to come.

Given that we are dealing with public money, I support the amendment moved by the noble Lord, Lord Kirkwood. It should go beyond the PAC and at least include the DWP Select Committee, which has never shown any interest in this, and the Charity Commission, which is useless as the regulator of charities. Implementing the amendment at least would lead to an inquiry into the finances of the scheme.

DWP is paying the Motability charity around £20 million. The charity gets about £7 million in lease levy from the vehicles used. It has an income of about £30 million. The charity, which is more than

60% dependent on government funds—this is public money but not in the way we expect public money to be raised; it is government money from the DWP paid to the charity—has two employees on more than £160,000, which is more than the Prime Minister earns, and another employee is on a six-figure salary. Last week, when the *Times* exposed anger about six-figure charity pay deals, it did not mention this, but it could well have looked at the Motability charity, which is supported and 60% paid for by the DWP. We are not talking about individual donors—this is a straightforward 59.6%, according to the latest accounts. That is partly responsible, in duty, for the whacking great salaries of the charity, and that is before we come to the operations arm. One of the chief executives of the charity is on more than £170,000, another is on more than £160,000 and someone else is on between £100,000 and £110,000. As I say, this is a charity that is 60% paid for by the Department for Work and Pensions.

But the main scheme, as the noble Lord, Lord Kirkwood, said, is operated by Motability Operations group, which is a company owned by four banks: Barclays, Lloyds, HSBC and the Royal Bank of Scotland. It operates as a contractor to and is directed and overseen by the charity. This, for me, is the crucial link to where public funds are involved. It is public money we are talking about here, but there seems to be no real accountability. The revenue of the company is around £2 billion from the operating leases and £2 billion from the resale of vehicles at the end of the three-year lease. Some 600 cars a day are placed on the second-hand car market. As I said in the debate earlier this year, I am well aware that someone in my family once had such a car. Motability Operations claims that it gets no money from the Government. It states that on page 4 of its latest accounts. But the £2 billion from the leases is in fact the DWP Motability payment to more than half a million people, and because they have agreed to assign their DWP allowance to the scheme, the money is paid directly to Motability Operations. That is what Clause 20 is all about.

I support Clause 20, by the way, and in my view it ought to be retrospective in order to claw some public money back from this company and thus enable the Government to recover their costs. There is a direct link, and this clause is the missing piece of the jigsaw. After our debate in February I went to the Public Accounts Committee, the National Audit Office and the Charity Commission, but no one wanted to know. They said, "It is not public money so it is nothing to do with us". This clause links it all together, so it is a really useful one and I am grateful that it is in the Bill.

As my noble friend said, the chief executive of the operations company is on a package of more than £900,000. The chair is on a package of £195,000 and a handful of directors—fewer than five, I think—take £3.3 million between them. There are also loads of long-term incentives for the CEO and the directors. The whole system depends on the DWP payment, which Clause 20 makes clear; it shows the direct link. As such, the NAO and the PAC should take a look at it, and that is what the amendment is about. The Charity Commission should be interested in the governance arrangements. It could ask, for example, why the chair of the company operations remuneration committee thinks it right to stand down after two three-year terms, as set out on page 43 of the accounts, and yet the charity trustees have been serving for four decades. I repeat: four decades. When you ask the Charity Commission about it, all it ever gives you is the last time they were elected. Of course, they are all on something like three-year terms, but no one is interested.

I have to say that Alan Yentob came unstuck after serving loyally as a trustee at Kids Company for 18 years because after that length of time he could not tell the difference between management and governance. His 18 years as a trustee is less than half that of some of the Motability trustees, but the Charity Commission does not seem to bat an eyelid about it. There is a strong case for the Nolan principles of public life being applied to the third sector, which of course they are not, but I think they would cover this point. In short, we have here a service that everyone agrees is a public good. There is no argument about that. But it is based on public funds and however the risk factors are dressed up—they are minimal in comparison with the real private sector—they are being used to pay these banker-sized salaries. Of course, I accept that the second-hand car market is highly specialised, but let us face it, it is the biggest company going with 600 cars a day feeding into the market.

Lord Davies of Stamford (Lab): I was hoping to catch my noble friend before he sat down, which I thought he was about to do.

I am very grateful to my noble friend, and I think the whole House will probably be very grateful to both him and the noble Lord, Lord Kirkwood, for raising this fascinating matter. I have two questions to put to him. Normally speaking, a high salary is justified, where it can be justified at all, either by the high risk incurred by the person who is receiving it or by the great competitive merits of that person in showing great skill in the face of competition. Can my noble Friend tell the House, first, what risk is being run by the operations company in this case? How risky is its business? Secondly, how much competition is there for this business, or does the operations company have an effective monopoly on the motability business in this country?

Lord Rooker: I am grateful to my noble friend and I will come to that very point because it is crucial. I am not clear what the banks get out of this; I do not believe that they are doing it for nothing. The Library has not been able to explain it to me anyway.

That brings me to my final point and I will cover the points made by my noble friend. As the noble Lord, Lord Kirkwood, said, there is another £180 million in another charity within the Motability charity sitting there doing virtually nothing. The Motability Tenth Anniversary Trust was set up by the Motability charity. It has the same trustees, an income of £50 million a year and expenditure of £5 million. It has assets of £180 million. It has no employees or volunteers, so it cannot possibly be fulfilling the public benefit rules for charities on those figures. I checked them again on the web the other day.

[LORD ROOKER]

The website AccountingWEB had some interesting points to make. It referred to the asset seemingly sitting around not doing much. The original funding for this charity within a charity was 50% from Motability Operations, the company, and 50% from the DWP. There is a direct link with this charity within a charity—50% of it was funded by the DWP to start with. Does it mean that the not-for-profit status of operations is maintained by recycling the Motability Operations profits back into the Motability Tenth Anniversary Trust in order to swell the coffers, and so avoid tax? It asked whether this incestuous arrangement is there because someone has worked out a way to get their hands on it, and in due course extract it from the trust. Again, this is a direct link—the DWP funded 50% of the charity within a charity. It funds 60% of the main charity so it is directly responsible for the salaries of the charity staff. I fully accept it is the Motability Operations company that is responsible for the real bankers' salaries—almost £1 million for the chief exec.

I am coming to the end. The Treasury, I understand, loses around £350 million in VAT by this whole complex set-up. Operations installed a new IT system in August. It cost around £100 million but did not provide any upgrade to functionality. I am reliably informed that this required a lot of hospitality and team rebuilding—all on the cash of people with a disability.

Maybe it is time, as the notes on Clause 20 say, or envisage, to bring some competition into the market because there is no competition. Clause 20 is set up where it envisages that there might be another provider. Well, there is not. In some ways, if the DWP wanted to get its hands clean and do some real governance on this—and the Government, because they are all part of the issue—a bit of competition would not go amiss. That is where we come in. The opportunity of Clause 20 is useful for the Select Committee in the other place which, as far as I know, has not batted an eyelid. The issue has been raised very occasionally but not properly. It has never been taken seriously by the Government or the department.

10.15 pm

I look forward to the Minister's reply as he will remember that he started this—I do not say that in an accusatory way; I am a member of his fan club for doing so—with his reply to the question of the noble Lord, Lord Forsyth of Drumlean, about the relevant salaries on 2 December 2013 at col. 3 of *Hansard*. With that reply he alerted the House to this issue. When "Noble Lords: Oh!" appears in *Hansard*, as it did at col. 3 on 2 December 2013, that means there was a very big reaction to the Minister's contribution. As I say, I look forward to the Minister's response.

I do not expect a full response tonight, but I do not expect this matter to go away, either. Millions of pounds are involved, stuck away in charities, apparently doing nothing, and people are being paid fortunes as chief executives of charities that are directly funded by the department, so there cannot be any excuse for the charities concerned. I know it will be said that this is up to the trustees, but the trustees have been there since day one. The confusion between governance and management is such that we will never have any change. Therefore, it was quite right of the noble Lord, Lord Kirkwood, to bring this issue to the attention of the Committee.

Lord McKenzie of Luton (Lab): My Lords, this amendment requires certain financial and governance arrangements to be put in place in respect of the providers of motor vehicles under Motability arrangements. As we have heard, it is attached to Clause 20, which contains a provision enabling the Secretary of State to recover the costs of administering the scheme under which mobility components of DLA and PIP are made available, on the claimants' request, to Motability. I understand that the annual charges will be under £1 million per annum and that Motability will absorb this so that it will not be passed on to lessees, but perhaps the Minister will confirm that.

The noble Lord, Lord Kirkwood, and my noble friend Lord Rooker have raised concerns before over the governance issues and in particular the level of remuneration of the chief executive of the operating company. We should acknowledge that Motability has been a major force in helping disabled people to have access to suitable vehicles. Since its creation in 1977, it has supplied more than 3.5 million vehicles and currently has some 637,000 customers—a 1.8% increase on the year.

Noble Lords will be aware—my noble friend spelled this out—that there are basically two separate entities: Motability, which is a registered charity incorporated under royal charter; and Motability Operations Ltd, an entity regulated by the FCA and owned by four major banks. The latter is contracted to carry out the acquisition and leasing operations on behalf of the charity. Each of them publishes extensive annual accounts, the former in accordance with the Charities Act 2011. The latter is financed by a combination of bonds in the capital markets and bank borrowing. Obviously, the main source of income for the scheme comes from individuals who choose to spend either their higher rate mobility component of DLA or the enhanced mobility component rate of PIP.

It will be recalled that the introduction of PIP as a replacement for DLA was discussed extensively during the passage of the Welfare Reform Act 2012, with the prospect of the revised mobility thresholds meaning that some disabled people would drop out of entitlement. Can the Minster please update us on the progress of this, which is due to be completed in 2018? How many DLA recipients have been reassessed and how many have fallen out of eligibility for Motability? One-off transitional support has been introduced for those who would lose the use of their vehicle, and perhaps we can know how many have availed themselves of this. This level of support was said to be subject to review during 2015. Has this happened and what changes are proposed? Was there any consultation with the DWP involved?

It would seem that the operating group is funding the cost of this transitional support via the charity. Does this mean that the costs are ultimately being borne by the vehicle lessees—that is, the very disabled people the scheme was meant to support?

The DWP also provides funding to the charity for the Specialised Vehicles Fund, which enables disabled

people to lease a drive-from-wheelchair vehicle. Is it the case that, faced with funding being frozen on an annual basis, Motability has restricted access to the fund and apparently did this without consultation? Can the Minister say whether this restriction was discussed with the department at all and whether it agrees with the approach adopted?

As my noble friend made clear, public funding is involved in these arrangements in various ways: the application of Motability components of DLA and PIP; funding for the Specialised Vehicles Fund; and taxation benefits by way of zero VAT on the lease of vehicles and their sale at the end of the lease period. On this basis, notwithstanding the published report and financial statements, noble Lords are justified in testing matters of value for money, transparency and probity, and we look forward to the Minister's response.

Lord Freud: My Lords, that was a thoroughly enjoyable debate for this time of the evening. The amendment moved by the noble Lord, Lord Kirkwood, is directed at Motability, which provides vehicles at discounted rates to people whose disability or long-term health condition has a significant effect on their mobility. It is run on a day-to-day basis by Motability Operations, a limited company, and is overseen by the Motability charity.

On the specific questions about Clause 20 that were raised by the noble Lord, Lord Kirkwood, I can say that the Government divert benefit payments directly to Motability but the administrative costs of the diversion have been borne by the Government, who do not have the power to recoup them. Clause 20 gives the Secretary of State the power to make regulations to do so. Such a power would currently apply only to Motability but it is drafted broadly to enable the provision to apply to any organisation running a future scheme.

I can confirm to the noble Lord, Lord McKenzie, that the cost is small—less than £1 million, I think—and Motability has confirmed that it will not change its pricing or the level of service it provides. Therefore, it will have no impact on its members.

The noble Lord, Lord Rooker, asked about information on directors' remuneration and relevant interests. That is available in the annual and interim accounts of Motability Operations, in compliance with international financial reporting standards. These can be found on its website, which is where I found them on the occasion referred to by the noble Lord, Lord Rooker. Indeed, it publishes information on its board meetings in the same place.

The department meets regularly with Motability to discuss the scheme's performance. I know that this does not overly impress the noble Lord, Lord Rooker, but as a charity, Motability is accountable to the Charity Commission. It is therefore unnecessary to require Motability to submit the annual report that is the formal subject of the amendment, because the information is there.

I will run through some of the rather surprising number of other issues. On overhead costs, Ernst & Young found that Motability was driving down its overhead costs, while satisfaction was rising. On the monopoly question, we have regular meetings and consider the value for money that Motability provides. The banks own Motability shares but they have waived all dividends and received no profit.

Lord Davies of Stamford: The Minister has moved on rather rapidly. He brushed past the quite important issue of a monopoly without going into it. What seems to arise from this situation is that we have here a government department—the Department for Work and Pensions—which has given a contract on a monopoly basis to a charity, which appears then to have given its business on a monopoly basis to a public company. One could imagine that that structure could easily be used elsewhere. It is a very attractive idea: a nice little number and a cosy arrangement for those receiving the salaries and getting the other benefits from the circulation of public money in that way. That is the basis of the concern about monopoly. Maybe the Minister would like to enlighten the House if I am wrong. It would be interesting to know whether the Government have done anything to encourage competition or to see whether any alternative providers might be interested in getting into this market.

Lord Freud: I was able to say that the department considered value for money and had drawn up this clause to allow for other providers. That is as far as I can go at this stage. Motability is a long-established and very well-loved organisation; that is the current position.

On the second charity, the Motability-run fund is used to support the objectives of Motability and is not government-run. The remuneration of Motability Operations directors, and indeed those of the charity, is a matter to be decided by Motability.

Lord Rooker: Can we just pause there on the charity? I fully accept that Motability Operations is a company and that it is up to the directors what they pay the chief exec, given what the risk is and the competition. The charity is different. This charity is 60% grant-funded by the Minister's department—to be accurate, it is 59.6%. Does he go back to the Prime Minister occasionally and justify it by saying, "We're paying out 60% of the money to this charity and, by the way, we are paying the chief exec a lot more than you"? There were supposed to be some rules in Whitehall about people not being paid more than the Prime Minister. I knew that when I was at the Food Standards Agency. We had charities exposed in the *Times* last week for paying six-figure salaries. It is no good the Minister saying that it is down to the trustees of the charity when the department is funding 60% of that charity, which is not going out collecting money from the public with tin cans. I know that it has other donors—I am not arguing with that—but if it is 60% directly funded by grant from his department, can the Minister really justify it having three people on six-figure salaries, one of them on more than £170,000 a year, and paid for by his department? Is he happy with that?

Lord Freud: There is a key issue about charities having to attract the best people when they are very substantial operations, which Motability is. I know,

[LORD FREUD]
because I was involved for a period in a foundation in the charitable area, that to attract the kind of people who are commercially competent puts you into that bracket. I have said enough.

Lord McKenzie of Luton: One can understand the argument that the Minister has advanced in respect of the operations entity, but it seems much more difficult to justify the position he has taken in respect of the charity.

10.30 pm

Lord Freud: The amounts in the operations are of course much greater than in the charity. Maybe I am overinfluenced by some of my personal history on what people are paid in the commercial world, but the £100,000 to £200,000 bracket in a charitable context for what is now a substantial operation does not seem completely out. You can take two views on charities: either people should work for them for nothing and any money is wrong or you have to attract the very best people. I would think that if you are in that market, those sums are reasonable. That is the best I can do on that issue.

Lord Oates (LD): Would the Minister accept that there are people in the public sector who run very significant operations, but the Prime Minister and others in the Government have said it is not acceptable for them to be paid more than the prime ministerial salary? How does this differ, given that, as my noble friend and the noble Lord, Lord Rooker, have pointed out, 60% of the funding for this charity is provided by Her Majesty's Government?

Lord Freud: I should have made clear before that that is not departmental money; it is users' money that we transfer. That is the reason that the salaries are set by Motability and not by government. Government does get itself into quite a lot of problems because there are areas of commercial endeavour where salaries, bluntly, are much higher than the Prime Minister's salary. There is a different set of rates in the outside world. I know that the noble Lord, Lord Rooker, is not going to let this one go and I will watch him—from a distance—to see how far he gets on this.

Finally, the noble Lord, Lord McKenzie, asked where we are. It is too early to tell the full picture. This started on a control basis only in July 2015, so I do not have a reliable figure for him. I remind noble Lords that customers who return their vehicle in good condition will get the benefit of up to £2,000-worth of support from Motability, which will in practice allow many to continue to be mobile through purchasing a used car.

Lord McKenzie of Luton: Would the Minister just mind dealing with two residual points? One is about the transitional protection—how that is funded and whether it is dealt with by the charity from contributions to the operating company or otherwise. The second is that the specialised vehicle fund has been frozen for a couple of years, which has obviously had an impact in terms of the opportunity to take advantage of that in an inflationary situation. Were the Government consulted on the changed criteria that were put in place for that?

Lord Freud: I will have to write on that latter point. The funding for the £2,000 comes from Motability itself—the charity—as I understand it, based out of the reserves it has built up. It needs very substantial reserves because the risk in a leasing business is in the residuals, which can be very volatile, even though you are the biggest. You need very substantial reserves, but it took a view that it had some excess which it was prepared to spend in this way. I urge the noble Lord to withdraw his amendment.

Lord Kirkwood of Kirkhope: My Lords, the moment that the noble Lord, Lord Rooker, suggested to me that this was something worth looking at, I noticed that Motability Operations had set up a review of its remuneration committee's decisions for its executives. The annual report, which has just been published, shows that it has merely tinkered with this. There was a real hope that it would respond to some of the external interest in what it was doing, yet it has come back with some tiny amendments to the remuneration package and increased the co-salaries in the way that I explained earlier.

I think that the Minister should tell his friends at Motability that Parliament is interested in this. It is in Motability's interests to respond to the need to be more transparent and to be more assiduous in explaining what it is doing and why it is doing it. This will not go away; I will be standing shoulder to shoulder with the noble Lord, Lord Rooker, so the sooner we can get a modus vivendi whereby Parliament shows that there is an interest in engaging, the better that would be for Motability and for everyone else. However, I beg leave to withdraw the amendment.

Amendment 104AA withdrawn.

Clause 20 agreed.

Amendment 104B

Moved by ***Earl Cathcart***

104B: After Clause 20, insert the following new Clause—

"Power to supply relevant social security information to accommodation provider

(1) The Secretary of State, or a person providing services to the Secretary of State, shall have power to supply information relating to any relevant social security benefit to a person who provides accommodation to the claimant for the relevant benefit so long as the claimant has given written authority for the provider of the accommodation to receive such information.

(2) "Relevant social security benefit" has the same meaning as in section 121DA(7) of the Social Security Administration Act 1992 (interpretation of Part VI)."

Earl Cathcart (Con): My Lords, the three amendments in this group all relate to private landlords, who now account for 4.2 million properties for rent and more than half of all rented properties. However, as of August, less than a third of all housing benefit claimants lived in private rented accommodation. Why so few? Why is there this bottleneck deterring private landlords from taking on benefit claimants? As a landlord,

I have claimants in my properties, but it is not made easy. Given the choice of a couple in work or a couple on benefits, for the landlord it is a no-brainer. Why take the risk, the hassle and the uncertainty of renting to the couple on benefits?

As the rental market tightens due to increased demand, it is important to encourage and support private landlords to house those in receipt of universal credit so that they can access accommodation, otherwise they will find themselves at the back of the queue. These amendments explore ways to do just that.

The first amendment is about giving the power to give the relevant universal credit information to the landlord. Landlords need assurances that tenants have the funds available to pay their rent. Without these, renting to them becomes a risky business. Currently, the private landlord can get no information about the amount of universal credit and when it will be paid. For those tenants in work, landlords will always ask for references from employers to establish their income to ensure that the funds are available to cover the rent. Surely it must be common sense for landlords to be able to do likewise for those in receipt of benefits. I understand that social landlords are able to gain such information, so why not private landlords? Surely what is good for the goose must be good for the gander. I acknowledge that it is quite difficult to find out how much benefit will be available before the tenant moves in, but it is not beyond the wit of man to publish a ready reckoner to help everyone see where they stand, according to each local housing area's allowances.

Amendment 104B would insert a new clause to ensure that there is a legal power, where the tenant provides written consent, for the Department for Work and Pensions to disclose to all landlords information on the housing element of the tenant's universal credit, including the amount, or approximate amount, and when it will get paid.

The second amendment relates to rent arrears. As benefit claimants may often move home, including to seek work, landlords need the security of knowing that tenants in receipt of benefit cannot simply stop paying their rent and leave their property. Currently, rent arrears can be recouped where a benefit claimant is still living in the house to which the arrears apply. There is, however, little or no opportunity for the landlord to recoup when such tenants move house, unless they are prepared to go through a lengthy and costly court process.

I cannot see the logic in allowing the landlord to recoup the arrears if a tenant is still in the landlord's property, but not if the tenant has moved. I realise that there will probably be a hierarchy of deductions that can be made from future universal credit—no doubt future rents, council tax, utility bills, et cetera, would come first—but if even only a percentage of the arrears was paid each month, it would act as a disincentive to tenants to rack up the arrears in the first place and ensure that the landlord was not left high and dry once the tenant had jumped ship. Amendment 104BA would insert a new clause requiring the Secretary of State to make regulations to ensure that rent arrears follow a tenant in receipt of universal credit and that landlords affected have a clear route to reclaim lost rent in such circumstances.

The third amendment concerns making payment of the housing element of universal credit direct to the landlord, with the written consent of the tenant. It is vital that landlords have full confidence that they will be paid in full and on time if vulnerable tenants are to have access to the rented homes they need. This is especially important since the Government took away the option for tenants to ask that the housing element of universal credit be paid directly to the landlord, as was formerly allowed under housing benefit. At first, I thought that that omission was an oversight, but I now understand that the Secretary of State wants all the money to be paid to the tenants so that they learn to become responsible for managing their money—a great idea but, sadly, I do not think it is working.

A survey conducted this year by the Residential Landlords Association found that of those private sector landlords who had tenants on universal credit, 63% had tenants in arrears on their rent. Of this group of landlords, 85% had contacted the Department for Work and Pensions to have a tenants' housing element of universal credit paid directly to them after eight weeks of arrears, as is their entitlement. More than 57% of this group said that it had taken the department more than five weeks to respond to the request, with all the consequent difficulties this caused the landlords in not getting paid.

I understand that the problem is even worse when one looks at social housing. A survey carried out by the National Federation of ALMOs and ARCH—the Association of Retained Council Housing—found that nearly 90% of council house tenants in receipt of universal credit are in arrears. I had to look that up again: I could not believe it, but apparently it is so.

Baroness Hollis of Heigham: I declare an interest as a former chair of both a local housing committee and a housing association. Given that universal credit is paid at the end of the month and this might not be coterminous with housing associations or social housing, what does the noble Lord regard as an arrears? Is he talking about more than eight weeks' failure to pay the rent, because five to six weeks might simply be the failure to co-ordinate payments, given the move, unfortunately, to monthly payments?

10.45 pm

Earl Cathcart: I think that I caught the noble Baroness's question. I do not think it is after eight weeks: I think it is in arrears—that is, they have not paid the monthly rent on time and they have not paid the next month's rent on time, et cetera. I hope that that answers the noble Baroness's question.

Baroness Hollis of Heigham: I meant that the arrears might simply be a technical cash-flow issue, and not a legitimate arrear, because if, for example, the rent is due before the payment of universal credit, there will be a period when there will be arrears. The noble Earl will understand my point, but the arrears that matter are the arrears that become irrecoverable, which usually, in my experience, means eight weeks.

Earl Cathcart: Yes, I imagine that it is before the eight weeks as well. As I said, I found the figure of 90% to be quite extraordinary, so I do not believe that it is working in the social housing sector either. All this could have been avoided if the rent had been paid direct to the landlord.

In addition, in October 2012, a survey of more than 1,000 landlords carried out by the Residential Landlords Association and the Scottish Association of Landlords found that more than 91% of landlords were less likely to rent to tenants on benefit as a result of the decision not to automatically make the payment of the benefits direct to the landlord. Not making the payment direct to the landlord is not helping the landlords and not helping the tenants; indeed, all the evidence backed by Shelter, Crisis and the Money Advice Trust has been that paying it direct to the landlord was popular with tenants. They were assured that their rent was covered before they decided how else to spend their money.

I believe that in Northern Ireland the benefit is to be paid direct to the landlords, as, too, in Scotland. Therefore, why not in England? Amendment 104BB would give tenants the free choice to have the housing element of their universal credit paid direct to their landlord. I hope my noble friend will look favourably on these three amendments, and give landlords, tenants and, indeed, me an early Christmas present. I beg to move.

Lord Best (CB): My Lords, I support Amendment 104B in the name of the noble Earl, Lord Cathcart, to which I have added my name. This would empower local authorities and the DWP to give landlords details of entitlement to housing benefit—in future to the housing element in universal credit—where a prospective tenant gives written consent for this information to be imparted. In parallel to efforts to come down heavily on so-called rogue landlords, the Government should try wherever possible to be supportive of good landlords, of which there are, thank goodness, plenty of examples. The nation needs a strong, responsible private rented sector. Legislation should surely be supportive of those willing to invest in decent rented housing, perhaps particularly in rural areas, where some large landowners often act in a similar way to a local housing association.

However, we know that many landlords are nervous of offering a tenancy to those on low incomes who could have difficulty paying the rent, particularly now that welfare reforms have diminished benefit support for these households. Landlords who want to do the right thing, who charge reasonable rents and who are keen to help those in their local communities should not be deterred; they can be reassured that prospective tenants have an entitlement to universal credit and can afford to take on a tenancy, so long as those responsible for administering benefits are willing to explain the position. If officials administering benefit do not feel able to discuss an individual case—even where, as in the amendment, the individual gave written consent for this—I commend the idea that they be required to share enough information with each landlord to enable them to make an informed decision.

Perhaps I could also stand in for my noble friend Lady Meacher and add support to Amendment 104BB, which is also in the names of the two noble Earls, Lord Listowel and Lord Cathcart. This also addresses a new barrier to private landlords accepting low-income tenants. It calls for the facility for payment of the housing element in universal credit to be made direct to landlords where the tenant requests it. I know the Minister was able to give some reassurance on this score to councils and housing associations by ruling that direct payments should be made easy where a tenant is eight weeks or more in arrears, and also by allowing direct payment of rent from day one for the most vulnerable tenants. However, a lot of private landlords will simply not let to anyone on benefits—that is, in receipt of the housing element of universal credit—if there is the prospect of an eight-week loss of rent before a tenant's request for direct payment can be activated. For the private rented sector, direct payments seem sensible from the perspective of tenants as well as all those who want to encourage private landlords to be helpful and supportive to those in receipt of benefits. I support these amendments.

The Earl of Listowel (CB): My Lords, I will speak briefly to my Amendment 104BB. I am grateful to the noble Earl and my noble friend Lady Meacher for adding their names to it, reflecting our earlier debates about the great concerns around increasing homelessness. Clearly these amendments are important because we wish to encourage landlords to take low-income tenants to address that homelessness. I declare my interests as noted in the register as a landlord.

I will not go into the details of this amendment because the noble Earl did that already. My concern is that paying HB directly to claimants may compound the homelessness issue we discussed earlier and contribute to a reduction in social housebuilding. Many of those receiving housing benefits may already be in debt, feel tempted to use their rent to pay off such debts and consequently become homeless. It may be that the eight-week limit that has been discussed will protect them from that. Social landlords are concerned that direct payment to tenants of HB may lead to tenants accruing arrears. Pursuing arrears is a costly business. Social landlords already face reduced incomes thanks to the reduced rents that this Bill introduces. Consequently, they may have less money to build more homes and we may see an impact on the building of social housing. I have two questions for the Minister on the effect of the move to direct payments of HB to claimants. What level of cost to social landlords does the Minister anticipate arising from that move to direct payments? What impact on homelessness, if any, does the Minister anticipate?

Baroness Sherlock: My Lords, Amendments 104BB in the names of the two noble Earls, Lord Listowel and Lord Cathcart, and the noble Baroness, Lady Meacher, would address the question of direct payment. Direct payment was the subject of considerable discussion during the passage of what became the Welfare Reform Act 2012, together with deliberations on the frequency of payments and split payments, not to mention jam-jar accounts.

My noble friend Lady Hollis asked about the research mentioned by the noble Earl, Lord Cathcart, from the National Federation of ALMOs and ARCH. It did

indeed show that 89% of universal credit claimants were in arrears and that 34% of them were eight weeks in arrears, so they were in receipt of an APA. That is a significant proportion, so there clearly is an issue that they have picked up on about the extent of arrears—hence the question of direct payments.

We know that the Government's starting point is that in the overwhelming majority of cases they want and expect universal credit to be paid as a single monthly payment in arrears to the claimant. But they have set down criteria for considering alternative payment arrangements in limited circumstances for the payment of the housing element of universal credit, invariably the first in order of priority. The guidance states that when arrears reach one month's rent the DWP will review the situation, following notification by the claimant or the landlord, and when they hit two months or eight weeks, either the landlord or the claimant can request an APA. There is no automatic right to one because the Government are still clinging to the concept that managing benefits should mirror the choices in managing money that they say those in work have to make.

However, if an APA is in prospect, this would normally start with personal budget support followed by a managed payment to the landlord. The guidance sets out the tier 1 and tier 2 factors which will be considered for an APA. But having theoretical opportunities to have direct payments is one thing; what matters is how the rules are being applied in practice, so perhaps the Minister can help us here. We know that through to 3 December 2015, there have been 287,310 universal credit awards. Will the Minister tell us how many of them had a housing element included and how many have had an alternative payment arrangement? How many requests for direct payment to a landlord have been made by either landlord or claimant and, of those, how many were approved and how many rejected? I accept that the Minister may need to write to me on these points, but it would help us understand the scale of the problem and whether the research that has been identified is in fact representative of the situation for universal credit claimants more broadly.

Amendment 104BA in the name of the noble Earl, Lord Cathcart, seeks arrangements whereby payment of arrears in respect of a former property can be made by direct payment of a current universal credit claim. This has obvious difficulties because maintaining the current home should be the priority. There must be a risk that adopting that suggestion could lead to a round of evictions for rent arrears as arrears build up in a current tenancy in order to satisfy the arrears on a previous tenancy. There could be further complications because a universal credit award may not cover identical households for the current tenancy and the previous tenancy, so it is not clear how it might be apportioned.

Amendment 104B in the name of the noble Earl, Lord Cathcart, and the noble Lord, Lord Best, seeks a power for the Secretary of State or somebody else to supply information relating to any relevant social security benefit to a landlord, depending on the written authority of the tenant. Noble Lords will be aware of regulations enabling the limited supply of social security information to social landlords, which is governed by the Data Protection Act. I understand the potential benefit to landlords of this, but it raises issues of a different magnitude given the sheer number of private landlords, let alone the capacity issue, so I will be interested to know how the Minister thinks that that might be approached.

There may be an issue here with regard to arrears and universal credit, and if the Minister is not minded to accept this amendment, he needs to come back to the House to suggest how the Government are going to go about dealing with this. I look forward to hearing his reply.

Lord Freud: These amendments relate to a number of housing issues, and I will deal with them in the order in which they are listed.

Amendment 104B would enable the Secretary of State to pass information relating to a claimant's social security benefits to their landlord as long as the claimant had given written consent. As the noble Earl and the noble Lord have stated, knowing that a tenant has claimed a social security benefit will allow a landlord to take early action to ensure that the tenant does not get into rent arrears and jeopardise their tenancy.

As the noble Baroness, Lady Sherlock, said, the Secretary of State already has power to supply some limited information to a social-sector landlord when one of its tenants claims universal credit. This information is shared for the specific purpose of enabling the landlord to determine whether that tenant needs advice, assistance or support in relation to their financial affairs.

The Government recognise that the need for this support might arise because, under universal credit, claimants are now responsible, in many cases for the first time, for handling a monthly budget. Claimants must also use their benefit to pay rent directly to their landlords, something that social tenants were not typically required to do under the housing benefit regime.

However, we do not recognise the need for the same level of support in relation to claimants living in the private rented sector. This is because such claimants will typically already have been responsible for paying their own rent under the housing benefit regime, so will struggle less with the changes introduced by universal credit. In any case, if these claimants require support in relation to managing their finances, it is unlikely to come from their private landlords. We therefore see no need to put additional information-sharing provisions in place.

11 pm

One of the key aims of our welfare reform programme is to ensure that claimants accept more responsibility for their actions and take greater control over their lives. We expect claimants to manage their relationship with their landlord rather than passing this responsibility on to the state. Accepting this amendment would run counter to that principle. It would require that the claimant gave their consent prior to any information being released. If a claimant is willing to make such disclosures, they are perfectly at liberty to do so themselves and to share information with their landlord directly. I see no reason why the Government need to be involved in the process.

[LORD FREUD]

On the point from the noble Lord, Lord Best, that the Government should support good landlords, universal credit is essentially blind to the merits of individual landlords. The Government therefore do not need to make a decision on whether a landlord is good, bad or indifferent.

Amendment 104BA would require that deductions were made from a claimant's ongoing universal credit to meet rent arrears owed to a previous landlord. I understand my noble friend's reasoning in proposing this amendment. One of the key aims of universal credit is to achieve a better balance between a claimant's rights and responsibilities. Walking away from arrears of rent in circumstances where the taxpayer has given you the means to meet those outgoings is abdicating responsibility, not accepting it. However, the underlying principle here is that we will make deductions from a claimant's benefit where this is necessary to protect their welfare. That is why such arrangements apply only where necessary, to avoid the risk of the claimant being evicted from their current accommodation. Even then, this is not something that we do lightly. Benefit payments, while providing an adequate level of support, are not overly generous. Any reduction in support risks causing hardship. I am afraid that I cannot accept an argument that the needs of a former landlord outweigh the needs of the claimant in such circumstances.

The proposal also has the potential to be extremely burdensome. The provision would apply only with respect to arrears that accrued during periods where the claimant received the housing costs element. This part of any arrears would need to be disaggregated from other arrears owed, which would be particularly problematic where the tenant and landlord disagreed.

If I may step gently into the research quoted by my noble friend, particularly regarding the figure of 90%, I was delighted at the rare sight of the noble Baroness, Lady Hollis, championing the Government on this.

Baroness Hollis of Heigham: Ha!

Lord Freud: All right, highly delighted.

Baroness Hollis of Heigham: Keep going.

Lord Freud: Half of those arrears were accrued in the first four-week period. We discovered in the direct payment project that there is genuinely an issue about moving people over in the first three months, and we are spending an enormous amount of energy and effort on pinpointing that. Indeed, we are doing a lot of work now with social landlords to get the problem under control.

I should point out that this proposition would be of greatest value to private landlords, as the social sector is much less volatile. It is not unrealistic to suppose that commercial landlords, like any other small business people, should make a certain amount of provision for bad debt. Rent payments can be made direct to landlords once arrears reach the equivalent of two months, which limits the degree of their exposure.

Amendment 104BB would allow universal credit claimants to request that the Secretary of State pay their housing costs element to their landlord. The Secretary of State already has powers to pay all or some of a claimant's universal credit entitlement to a third party where it would be in the claimant's or their family's interests. In practice, these powers are used to protect vulnerable claimants or claimants in rent arrears by paying the universal credit housing costs element direct to the landlord. However, as I have already said, the default position is for universal credit to be paid as a single monthly sum direct to the claimant; that is designed to mirror what would happen if the claimant was in full-time employment, when they would be responsible for managing their own funds and paying their own rent. The direct payment project showed that after 18 months the rent payment rate was 99%, which was comparable to now. Where there are problems, the department can manage payments and look to use the arrears option.

The amendment would also go further than the current arrangements for housing benefit, whereby the majority of private sector tenants are paid their housing benefit direct. To allow claimants to opt out of managing their own budgets while receiving universal credit would be a step backwards for them and a step away from claimants being job-ready.

I will need to answer the questions from the noble Baroness, Lady Sherlock, in writing, so I will cover those later.

Finally, my noble friend asked a question about Scotland. The Scotland Bill grants powers to Ministers to decide how to make payments but this is not a straightforward thing to do, because universal credit covers people who are in work and out of work and presumably you would not want to make payments to in-work people because perhaps the payments do not cover their rental elements. Therefore, it is a much more complicated issue than people realise when they do not understand completely how universal credit works.

The Government believe that work is the best route out of poverty and that universal credit should help, not hinder, claimants on their journey into employment so that they do not fluctuate in and out of work or go up and down the taper. Paying universal credit as a single monthly payment will ensure that claimants are best prepared for the transition to work and for staying in work. I hope that, on the basis of the explanations and reasons I have provided, my noble friend will withdraw his amendment.

Baroness Hollis of Heigham: My Lords, can the Minister help us? It would be very useful to have this information before we come to Report. The evaluation of the bedroom tax—obviously the Minister will be familiar with it— has just come out in the last three days or so. It shows that over 55% of tenants affected by the bedroom tax were in arrears in autumn 2014, although of course many of them had already been in arrears. Does the Minister have any figures to try to separate out the effect of the bedroom tax on the arrears issue from the move to universal credit and its payment methods? What information does the department have, and is it collecting any? It will be quite hard now,

because problems in paying your rent are beginning to layer on top of each other. We will need to disentangle these, if not for this Bill then for the Bill to come.

Lord Freud: I will not resist the temptation of pointing out that there is no such thing as a bedroom tax; it is the removal of the spare room subsidy, and I will be answering a Question on that tomorrow. Interestingly, the direct payments project provided a lot of insight into this issue. It started off with direct payments and then people started taking on the removal of the spare room subsidy as well. I will try to find the precise figures for the noble Baroness, as I am speaking slightly from memory. We found that the people who had learned how to go through the direct payment process were able to handle the removal of the spare room subsidy more efficiently than others. I will aim to get the noble Baroness chapter and verse on that.

Earl Cathcart: My Lords, I am disappointed by my noble friend's response to these three amendments. He seems to have said no to all three of them and I find that very disappointing. I do not think he has said anything this evening that has given any encouragement to private landlords to take on people who are on universal credit. In fact, he has probably reinforced the idea that one should not take on people who are on benefits, but that is not what my amendments are trying to do; they are intended to get people on benefits to go into private rented accommodation. I do not think that my noble friend has helped at all this evening, but I will read what he has said more carefully tomorrow or over the holiday period. At this stage, I beg leave to withdraw the amendment.

Amendment 104B withdrawn.

Amendments 104BA and 104BB not moved.

House resumed.

House adjourned at 11.12 pm.

Volume 767
No. 88

Monday
21 December 2015

CONTENTS

Monday 21 December 2015