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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

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Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
LD	Liberal Democrat
LD Ind	Liberal Democrat Independent
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

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House of Lords

Tuesday, 12 January 2016.

2.30 pm

Prayers—read by the Lord Bishop of Rochester.

Refugees: Eritrea *Question*

2.36 pm

Asked by Baroness Kinnock of Holyhead

To ask Her Majesty's Government what is their assessment of the recent UN Special Rapporteur's report on the plight of unaccompanied minors who are refugees from Eritrea.

The Minister of State, Home Office (Lord Bates) (Con): My Lords, the Government recognise the plight of unaccompanied children and have carefully studied the special rapporteur's report. Country information and guidance is based on an objective assessment of the situation in Eritrea using evidence from a range of sources, including that of the Commission of Inquiry on Human Rights in Eritrea.

Baroness Kinnock of Holyhead (Lab): I thank the Minister for his response. As he has said, the UN special rapporteur's report highlights the appalling situation of unaccompanied children from Eritrea who travel into and across Europe seeking sanctuary. The UK has a long history of supporting young victims of persecution, such as during the Second World War, so will the Government now respond to last week's recommendation from the International Development Select Committee and agree to take at least 3,000 of the most vulnerable refugee children already in Europe, many of whom are from Eritrea?

Lord Bates: As my noble friend Lady Anelay has made clear, we took very seriously the UN special rapporteur's report on the situation in Eritrea. In fact, it was the basis of the ongoing Article 8 dialogue with the EU as part of the Khartoum process. It seems that the Eritrean Government have given an undertaking to limit national service, which was the principal driver of a lot of the migration flows. On the noble Baroness's second point, we have had an opportunity to look at the Select Committee's report, which was published on 5 January and is very thorough. We will be responding to it in due course but it raises a number of very important issues.

Lord Alton of Liverpool (CB): My Lords, will the Minister confirm that the June 2015 report of the UN commission of inquiry said that probable crimes against humanity are being committed in Eritrea? That is why there has been such a haemorrhaging of the population, with 10% of the people—some 350,000—having fled thus far. If we do not come to terms with the root causes, will not those massive numbers of migrants continue

to rise? What are we doing to pursue the recommendations in that report? Furthermore, does the Minister not recognise that when those migrants leave Eritrea, the story is not over, as the beheadings in Libya by ISIS only go to prove?

Lord Bates: That is absolutely right. It was a horrific report and it is not something on which the British Government are standing idly by. It is an issue on which we have engaged with the Eritrean Government through our embassy in Asmara. There was a meeting between the Foreign Minister and James Brokenshire at the margins of the EU and African Union conference in Rome in November, and that was followed up by a visit by Foreign Office and Home Office officials to assess the situation there. We continue to put great pressure on the Eritrean Government to live up to the commitments that they have made. It is only by tackling the cause of the problem, whether in Eritrea or Syria, that we can hope to stem the flow that results in the consequences that the noble Lord has highlighted.

The Lord Bishop of St Albans: My Lords, I am grateful to the Minister for highlighting what is causing the problem. The UN special rapporteur has identified in this report quite a number of reasons that are driving this terrible situation and, in particular, highlighted human rights issues. A number of people have been arrested, such as the politician Mr Ali Omaro, journalists and the G15 group. Can the Minister update us on the situation of those high-profile people who have been arrested and detained?

Lord Bates: In response to the noble Baroness, Lady Kinnock, there was, on 15 July last year, a response from the Government, by my noble friend Lady Anelay, to that specific report. One of the problems with that report was that the rapporteur, disgracefully in our opinion, was not given access to Asmara and could not go to Eritrea to engage and find out for herself. That is why the dialogues that have been undertaken by Foreign Office officials and James Brokenshire are so important in establishing what is happening on the ground and in holding the Eritrean Government to account on the commitments that they have given.

Baroness Lister of Burtersett (Lab): My Lords, can I go back to the Question of my noble friend Lady Kinnock? The proposal to resettle 3,000 unaccompanied refugee children is not a new one. On 2 September, the Prime Minister said that the Government would discuss it further. On 2 December, he said that they would think about it some more. Yet here we are, a further month on. I plead with the Minister to inject some urgency into these discussions. Every day that a positive decision is not taken, more children are left vulnerable to trafficking, to the cold, to disease or even death.

Lord Bates: When we hear about this situation, as when the Prime Minister heard about it, the immediate instinct is to think that there are, somewhere, 3,000 unaccompanied children waiting to find placement. Of course, 3,000 is an estimate of the total number, and where they are in the system is clearly a matter to

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be defined. We think that the way to do that is through the Dublin regulations and by making sure that they are properly recorded when they arrive in the UK. It is worth noting that the conclusion to that report said:

“We strongly commend DFID for setting an exemplary standard in its commitment to funding humanitarian assistance to address the Syrian crisis”.

That is part of the solution, but there is more to be done, and the Prime Minister will make an announcement on his review when he has examined all the facts.

Baroness Hamwee (LD): My Lords, do the Government recognise that some of the factors identified in the special rapporteur’s report—fear of forced conscription; fear of facing the same ordeal as their parents, including imprisonment on the basis of religious affiliation; hopelessness, and so on—are push factors, which are different from the pull factors that are often talked about by the Home Secretary? Will he accept that if the Government recognised some of the push factors at play, tragedies might be avoided, such as that which happened a few days ago, when a young boy died trying to cross the channel to join his sister in the UK, even though I am advised that he would have been entitled to have his case considered here under Dublin III?

Lord Bates: It is right to point to that. We have seen an increase from 2012, when 80 unaccompanied asylum-seeking children from Eritrea came to the UK, to last year, when 460 came. The noble Baroness rightly identifies that the point behind that is the arbitrary nature of national service. The Government have given a commitment that that will now be limited to 18 months. The second factor which we weighed in their favour was the fact that they required an exit visa that required them to have completed national service before they could leave the country. That is why we continue to take very seriously applications for asylum from that country, particularly from unaccompanied asylum-seeking children.

Children: Obesity *Question*

2.45 pm

Asked by Baroness Benjamin

To ask Her Majesty’s Government what steps they are taking to ensure that children, especially girls, grow up fit and healthy, in the light of the recent report on the dangers of obesity in women in adult life.

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con): My Lords, tackling obesity and creating a fit and healthy society, particularly in girls and boys, is one of our major priorities. As we have previously said, we will be publishing our comprehensive childhood obesity strategy in the new year, and we will be doing so shortly.

Baroness Benjamin (LD): I thank the Minister for that Answer. As he said, childhood obesity has become the biggest public health challenge in the UK, with nearly a third of our 10 year-olds overweight. High sugar consumption means tooth decay and is the most common cause of hospital admissions among five to nine year-olds. Half of seven year-olds have less than an hour of daily exercise, and we all know that obesity and inactivity lead to major adult health problems. Shockingly, 29% of UK children are overweight as mothers risk having overweight children. What are the Government doing to address the educational and environmental factors that are causing this obesity crisis? Will they start by urgently introducing a mandatory sugar reduction target applicable to all firms in the food and drink industry?

Lord Prior of Brampton: My Lords, we all recognise, as does the Prime Minister, that obesity is a scourge in this country that affects many thousands of young people. Some 2.1 billion people worldwide are overweight or obese, so it is a huge global problem that requires a comprehensive strategic response. I hope that our obesity strategy will be announced in the very near future.

Lord Hunt of Kings Heath (Lab): My Lords, in developing this strategy, is his department talking to the Department for Education? He will understand that this is a particular issue at primary school level. There is evidence that the incessant determination of the Government to test primary school children at every age at every moment is squeezing the curriculum of playtime and physical activity. I hope that his department will talk to the Department for Education to turn this around.

Lord Prior of Brampton: My Lords, we have got to have a collective response to the obesity problem across many government departments, as the all-party parliamentary group made clear in its paper. Education is a critical part of that. The noble Lord will know that in the spending review the Government committed to continue the PE and sports premium in primary schools because we recognise that physical exercise and playtime at all levels in schools, but particularly in the early years, are vitally important.

Baroness Heyhoe Flint (Con): My Lords, I recommend to my noble friend that sport may be the panacea for many of the problems mentioned by the noble Baroness, Lady Benjamin. A new strategy for sport which targets young primary school children has just been issued, but does my noble friend agree that this dreadful problem needs a cross-departmental approach involving health, environment and transport, including cycling and walking? We should not spread the butter too thin as far as sport is concerned—or perhaps I should say the low-fat spread in this instance.

Lord Prior of Brampton: My Lords, my noble friend is right that we have to involve all departments. For example, she mentioned the environment. There is plenty of evidence to suggest that urban and educational

environments can be designed so that children spend more time walking. The development of cycleways in London is another example of how we can design our environment to improve the level of physical exercise that we take.

Baroness Walmsley (LD): My Lords—

Baroness Finlay of Llandaff (CB): Can the Minister outline what is being done specifically in relation to women in pregnancy, given that excessive weight gained in pregnancy, which is often linked to the phrase “eating for two”, is very difficult to lose afterwards, particularly if women do not breastfeed? Moreover, postnatal depression can itself be a cause of excessive eating after delivery of the baby, causing the maintenance or even aggravation of obesity. That requires specific services to target these women.

Lord Prior of Brampton: The noble Baroness will know that the report of the Chief Medical Officer which came out two or three weeks ago laid particular stress on the importance of women who are pregnant because of the impact of obesity not just on themselves but on their children as well. Advice is available through NHS Choices, Start4Life and Healthy Start; we have various schemes that are focused on pregnant women. I am sure that we can do more, and perhaps when the government strategy on obesity is announced in the near future, it will address that issue as well.

Baroness Walmsley: My Lords—

Lord Winston (Lab): My Lords, given that homo sapiens is a species that is programmed to eat carbohydrate and fat, what estimate have the Government made of how much childhood obesity is due to epigenetic factors rather than simply eating sugar and carbohydrate later on in life? Might this not be programming earlier in the generation perhaps as the result of previous generations’ environment? This is an essential point in understanding obesity.

Lord Prior of Brampton: The noble Lord makes an interesting point to which I cannot give an answer from the Dispatch Box. It is clear that epigenetic factors are important. It is not just about behaviour: rather, it is also the genes that we have inherited from our forebears and the fact that we have entirely different nutrition and an entirely different way of life today from that of 70,000 years ago. Would it be all right if I write to the noble Lord and explain that more fully?

Syria Question

2.52 pm

Asked by Lord Soley

To ask Her Majesty’s Government what progress has been made towards a settlement of the conflict in Syria.

The Minister of State, Foreign and Commonwealth Office (Baroness Anelay of St Johns) (Con): My Lords, as a result of efforts by the International Syria Support Group over the past three months, on 18 December the United Nations Security Council passed Resolution 2254 requesting the UN to convene the Syrian Government and opposition for negotiations on a transition process. These negotiations are due to start on 25 January and will be a welcome step towards ending the conflict, but clearly there is still a long way to go.

Lord Soley (Lab): I welcome that Answer and the progress, however slow, that is being made. Can I ask the Minister to say a bit more about Russian policy, which has always troubled me? It seems that Russia is determined not to let Assad or his party lose power. If that is the case, I am afraid that sooner or later, and difficult though it will be, we may have to reassess whether we have relations with that part of Syria and the Government of Syria as it was.

Baroness Anelay of St Johns: The noble Lord is right to point to the concern we have had that Russia’s military tactics appear to have been aimed more at keeping Assad in power than at attacking Daesh. I hope that Russia will consider that carefully and aim its attacks on Daesh instead, and that it will use all the levers in its power which it has with the Assad regime to persuade Assad to come to the talks and make sure that his team is engaged in true negotiations about peace in order to achieve a transition process. But the noble Lord is right to point to the difficulties involved.

Lord Howell of Guildford (Con): My Lords, can my noble friend tell us what importance and significance the British Government assign to the plan for Saudi Arabia and the GCC countries to form a 34-nation alliance to tackle Daesh? Are we supporting that and, if so, in what way? Can she also say what support we are giving to the Jordanians in their attempt to build a northern buffer zone in Syria and from that to drive into the Daesh heartlands? Is that something which we are also supporting?

Baroness Anelay of St Johns: My Lords, Saudi Arabia has been involved in convening a meeting of all those moderates who have been fighting against Assad’s oppression in Syria. We commend the advances that they have made with regard to that to ensure that there should then be a group of moderates who are able to come to the peace talks. With regard to Jordan, I have to say that it is too soon to be able to give a full answer to my noble friend. However, I will say that talks are progressing on ensuring that there may be a way of having a zone in the north of Jordan which enables those who have fled from Assad’s tyranny to rebuild their lives. But I would not wish to go further than that at this moment. I will do as soon as we are able to confirm details.

Lord Wright of Richmond (CB): My Lords, in his earlier reply to the noble Baroness, Lady Kinnoch, the noble Lord, Lord Bates, drew attention to the role of the embassy in Eritrea in handling the problems of

[LORD WRIGHT OF RICHMOND]

that country. Does the noble Baroness agree that it is high time that we re-establish a diplomatic presence in Damascus?

Baroness Anelay of St Johns: My Lords, the noble Lord is right to point clearly to the value of all our ambassadors and those who work with them around the world. At this point, it is important that we see Assad's regime take seriously the peace negotiations that are just within grasp. If we are able to see that he comes constructively to those negotiations to achieve the transition, I feel that we would look very positively at how we might engage further. We need to see how Assad reacts to the peace process first.

Lord Anderson of Swansea (Lab): My Lords—

Lord Ashdown of Norton-sub-Hamdon (LD): My Lords—

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): My Lords, on this occasion, we have not heard from the Lib Dems, so I suggest we go there first.

Lord Ashdown of Norton-sub-Hamdon: I am grateful. My Lords, we dropped food to besieged and starving Srebrenica and to besieged and starving Yazidis. If, after Madaya, local forces of whatever nature should block the legal access of UN convoys bringing aid to besieged communities, will the Government with others seriously consider the possibility of dropping food aid to them?

Baroness Anelay of St Johns: My Lords, the noble Lord is right to point to the appalling position for those who find themselves being starved out by Assad. Of course, some areas are under siege by Daesh and some by opposition groups, but mostly by Assad and Daesh. For the RAF to operate in the area of Madaya would have caused great—perhaps I may say—peril, in security terms. The right way to go forward is for Assad to grant the applications by the UN to have safe progress through. He has agreed so far only to 10% of those requests.

Lord Anderson of Swansea: My Lords, the Government's initiative on convening and hosting the pledging conference is most welcome but first there has to be a settlement. Reverting to the Question posed by my noble friend Lord Soley, does the Minister agree that the Russian intervention has bolstered the position and strength of President Assad and can only complicate the search for a settlement? Does Russia recognise the effect of its intervention?

Baroness Anelay of St Johns: The danger is that Russia's action may well have strengthened Assad's hand and makes it more difficult, perhaps, for Assad to see the benefit of a peace process. That is why I call on Russia to use its levers of influence with Assad to make sure that he takes the transition process seriously and comes to the table on the peace negotiations. I believe that the Syria crisis conference can go ahead

even before that peace has been achieved. It can show the way that we can achieve stabilisation in Syria in the future.

Lord Naseby (Con): Has my noble friend seen the report from the respected Carnegie Institute, which suggests that the southern front is the last key point for the Syrian rebels? As that front appears to be crumbling, does that not reinforce the point that somehow or other Assad has to be involved in the solution so that everyone can then concentrate on ISIS?

Baroness Anelay of St Johns: My noble friend points to the instability in the south of the country. This is really what was being referred to by the noble Lord, Lord Anderson, with regard to the fact that Russia has been involved in attacking civilians in opposition-held territory that is not Daesh. Assad is not part of the solution. It is certainly the case that he is a recruiting sergeant for Daesh. However, it is important that he sees the value for his regime to take part in the peace negotiations.

Flooding: Tourist Attractions *Question*

2.59 pm

Asked by Baroness Harris of Richmond

To ask Her Majesty's Government how they intend to support tourist attractions, such as the Jorvik Viking Centre in York, which suffered flooding over the Christmas period.

The Earl of Courtown (Con): My Lords, this Government are committed to supporting all businesses, including tourism businesses, affected by the floods. We are currently working with VisitEngland and VisitBritain to highlight what is on offer and to encourage visitors to book holidays to the region in the Easter period. In the longer term, we are supporting the tourist industry through the development and delivery of a five-point plan which sets out our vision for tourism in this Parliament.

Baroness Harris of Richmond (LD): My Lords, I thank the Minister for that reply. When I visited the Jorvik Viking Centre in York last week, it was a scene of utter devastation. The centre attracts more than 400,000 visitors a year and has had more than 18 million visitors since it opened in 1984. It is a world-renowned tourist attraction and educational centre, provided by the excellent York Archaeological Trust, of which I am a member and which depends largely on its funding from the Viking centre. The trust could be destroyed by this enormous loss of revenue. The City of York Council and North Yorkshire County Council are anxious to see this important centre brought back to life as soon as possible, as we all are. So will Her Majesty's Government urgently match any funding that the councils can make possible to enable and encourage this to happen?

The Earl of Courtown: My Lords, the noble Baroness is quite right in saying that the Jorvik Viking Centre is of international renown, and it is particularly important to all the schools in the area. Indeed, many noble Lords have come up to me since yesterday to say that they had visited it themselves. Arts Council England is in active discussion with museums in Yorkshire, Lancashire and Cumbria following the flooding and is considering what support can be provided. This Government have made available more than £200 million to support recovery efforts from the winter storms of 2015-16. Tourism businesses in flood-affected areas that have been directly or indirectly impacted are eligible for the flood recovery grant.

Lord Campbell-Savours (Lab): My Lords, Cumbria was equally affected, particularly the tourist industry in Cockermouth, Keswick and Kendal. Will Ministers now reopen negotiations with the insurance industry to re-examine Flood Re, which currently excludes commercial premises? Many businesses in the flooded areas are faced with huge bills, and they know that there will be floods in the future, against which they will have no insurance protection.

The Earl of Courtown: My Lords, the noble Lord is quite right. It is not just Cumbria: Yorkshire, Lancashire and the other counties in that whole area are all suffering from flood damage. I can confirm that Ministers are in discussions with the insurance industry at the moment.

Baroness Afshar (CB): My Lords, I would like to put on record the extraordinary generosity during this dilemma of the citizens of York, who, from day one, provided for everyone as much as they could. York is a point that pulls tourists northwards, away from London's centre of tourism. Is it not essential at this point not only to applaud and recognise the generosity of the people of York, but to allocate a specific sum to renovate the museum, which cannot be accessed at the moment, in order to extend tourism?

The Earl of Courtown: My Lords, the noble Baroness is quite right that the Jorvik Viking Centre is of great importance in York. One of the most important things we have been looking at in the five-point plan for tourism is transport, in order to spread tourism away from the centre to the other parts of the United Kingdom. The Rail Safety and Standards Board is running a £1 million competition to boost ideas to get more tourists on to the railways and out and about in the United Kingdom.

Lord Cormack (Con): My Lords, does my noble friend accept that, whilst we much appreciate the general sympathy that he is extending on behalf of the Government, here we have a specific and very important tourist attraction which is also reinforced by real scholarship? The height of the tourist season is not all that far away, so can this project please be looked on with real urgency?

The Earl of Courtown: My Lords, a number of activities and institutions in that area have been affected by the flooding, as has been said. The issue is of prime importance, and I can tell my noble friend that the Government are taking this extremely seriously. As I have said, we are urgently having talks with the insurance industry so that things can go forward.

Lord Stevenson of Balmacara (Lab): The noble Earl is good to remind us of the extent of the flooding and the damage that has been done, but we must be very grateful that, due to the heroic efforts of the workers in the Jorvik centre, we are going to retain the ability to see the last remaining Viking sock in the museum premises. However, the question is really about what will happen in the interim, because we are talking about closures of up to a year while the works are being done. What steps will the department take to try to ensure that the artefacts that have been put in storage are available for education and other purposes?

The Earl of Courtown: My Lords, I cannot give exact details on the situation in the Jorvik centre at present. I will write to the noble Lord and place a copy in the Library regarding the exact position, particularly in relation to the Viking sock, which is of course of national importance.

Lord Lee of Trafford (LD): The situation is actually still extremely serious. The noble Lord mentioned Cumbria, and I was told yesterday that forward bookings are 50% down on last year. Can he say whether all efforts are being made to rebuild the infrastructure? Are private contractors being incentivised, or are the military still being used?

The Earl of Courtown: My Lords, the noble Lord is quite right about the importance of the work relating to the flood water and the maintenance of the drainage infrastructure. Some £171 million is being ring-fenced in real terms over the course of this Government to carry out spending on the maintenance of assets such as defences, plants and watercourses in the United Kingdom.

Immigration Bill

Order of Consideration Motion

3.07 pm

Moved by Lord Bates

That it be an instruction to the Committee of the Whole House to which the Immigration Bill has been committed that they consider the bill in the following order:

Clauses 1 to 10, Schedule 1, Clause 11, Schedule 2, Clause 12, Schedule 3, Clauses 13 to 19, Schedule 4, Clauses 20 to 28, Schedule 5, Clause 29, Schedule 6, Clauses 30 to 32, Schedule 7, Clauses 33 to 37, Schedule 8, Clause 38, Schedule 9, Clauses 39 to 44, Schedule 10, Clause 45, Schedule 11, Clauses 46 to 59, Schedule 12, Clauses 60 to 65, Title.

Motion agreed.

Cities and Local Government Devolution Bill [HL] Commons Amendments

3.07 pm

*Relevant documents: 1st, 3rd, 4th and 17th Reports
from the Delegated Powers Committee*

Motion on Amendments 1 to 18

Moved by **Baroness Williams of Trafford**

That this House do agree with the Commons in their Amendments 1 to 18.

1: Clause 1, page 1, line 10, at end insert—

“(ba) functions exercisable by a Minister of the Crown that have been devolved as a result of agreements so as to become exercisable by a mayor for the area of a combined authority (including information as to any such functions that remain exercisable by a Minister of the Crown as a result of an agreement providing for functions to be exercisable jointly or concurrently);”

2: Clause 1, page 1, line 11, after “functions” insert “(so far as not falling within paragraph (ba))”

3: Clause 1, page 1, line 14, leave out “under section 2”

4: Clause 1, page 1, line 19, at end insert—

“() In this section—

“combined authority” means a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.”

5: Clause 2, page 2, line 1, leave out Clause 2

6: Clause 3, page 2, line 18, leave out subsection (2)

7: Clause 3, page 3, line 8, leave out from “authority,” to end of line 10 and insert “there are one or more non-consenting constituent councils but the combined authority and at least two constituent councils consent.”

8: Clause 3, page 3, line 13, leave out second “the” and insert “each”

9: Clause 3, page 3, line 15, leave out subsection (5)

10: Clause 5, page 4, line 26, at end insert “, or

(c) so far as authorised by an order made by the Secretary of State—

(i) for a person appointed as the deputy mayor for policing and crime by virtue of an order under paragraph 3(1) of Schedule 2, or

(ii) for a committee of the combined authority, consisting of members appointed by the mayor (whether or not members of the authority), to exercise any such function.

() An order under subsection (3)(c)(ii) may include provision—

(a) about the membership of the committee;

(b) about the member of the committee who is to be its chair;

(c) about the appointment of members;

(d) about the voting powers of members (including provision for different weight to be given to the vote of different descriptions of member);

(e) about information held by the combined authority that must, or must not, be disclosed to the committee for purposes connected to the exercise of the committee’s functions;

(f) applying (with or without modifications) sections 15 to 17 of, and Schedule 1 to, the Local Government and Housing Act 1989 (political balance on local authority committees etc).”

11: Clause 5, page 4, line 39, leave out paragraph (b) and insert—

“(b) in accordance with arrangements made by virtue of this section or section 107DA.”

12: Clause 5, page 4, line 41, at end insert—

“() include provision for general functions to be exercisable by the mayor subject to conditions or limitations specified in the order (including, for example, a condition for general functions to be exercisable only with the consent of the appropriate authorities (as defined by section 107B(6)));”

13: Clause 5, page 5, line 3, at end insert—

“() provide that functions that the mayoral combined authority discharges in accordance with arrangements under section 101(1)(b) of the Local Government Act 1972 (discharge of local authority functions by another authority) are to be treated as general functions exercisable by the mayor (so far as authorised by the arrangements).”

14: Clause 5, page 5, line 12, at end insert “, and

() in the case of an order made in relation to an existing mayoral combined authority, the mayor of the authority.”

15: Clause 5, page 5, line 14, leave out “the” and insert “a”

16: Clause 5, page 5, line 16, at end insert—

“107DA Joint exercise of general functions

(1) The Secretary of State may by order make provision for, or in connection with, permitting arrangements under section 101(5) of the Local Government Act 1972 to be entered into in relation to general functions of a mayor for the area of a combined authority.

(2) Provision under subsection (1) may include provision—

(a) for the mayor for the area of a combined authority to be a party to the arrangements in place of, or jointly with, the authority;

(b) about the membership of any joint committee;

(c) about the member of the joint committee who is to be its chair;

(d) about the appointment of members to a joint committee;

(e) about the voting powers of members of a joint committee (including provision for different weight to be given to the vote of different descriptions of member).

(3) Provision under subsection (2)(b) to (d) may include provision for the mayor or other persons—

(a) to determine the number of members;

(b) to have the power to appoint members (whether or not members of the combined authority or a local authority that is a party to the arrangements).

(4) Provision under subsection (2)(c) may include provision as to the circumstances in which appointments to a joint committee need not be made in accordance with sections 15 to 17 of, and Schedule 1 to, the Local Government and Housing Act 1989 (political balance on local authority committees etc).

(5) In this section references to a joint committee are to a joint committee falling within section 101(5)(a) of the Local Government Act 1972 that is authorised to discharge, by virtue of an order under this section, general functions of a mayor for the area of a combined authority.”

17: Clause 5, page 5, line 32, at end insert “, and

() in the case of an order made in relation to an existing mayoral combined authority, the mayor of the authority.”

18: Clause 5, page 6, line 14, leave out “the” and insert “a”

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, in moving en bloc that this House do agree with the Commons in their Amendments 1 to 18, I will also speak to Commons Amendments 21 to 39, 42 to 44, 62 to 73, 75, 76, 78, 79 and 80 to 82, and speak about the amendments that the noble Lord, Lord Beecham, has tabled to Commons Amendment 31 and Commons Amendment 36.

I am very pleased to put forward this group of amendments, which demonstrate the progress that has been made since the Bill was first introduced last May and that the Government have listened to the views made known in this House and in the other place. I do not wish to detain the House too long on this group, as we have a lot to discuss, but I put on record that I am grateful for the continued constructive approach of noble Lords opposite, particularly the noble Lords, Lord McKenzie, Lord Beecham and—I have just spotted him—Lord Smith of Leigh and Lord Shipley. I am also grateful to the noble Lord, Lord Warner, for the ongoing discussions to refine his clause on health matters, but we shall return to those matters later today.

It is in that spirit that I first speak to Amendments 1, 2 and 4, where the Government are pleased to accept the amendments inserted by this House for an annual report by the Secretary of State on devolution. These further amendments came as a result of listening to the debate in the other place. They will ensure that the Secretary of State's annual report will include information on the extent to which powers that have been devolved to a mayor also remain exercisable by a Minister of the Crown. It is only right that the Government are transparent when it comes to the devolution of powers to both local and combined authorities and these amendments, which the Government introduced in the other place, do just that.

I shall, of course, listen to noble Lords very carefully when they speak later today, but I cannot help noticing that they have not tabled anything for debate in response to Amendments 3 and 5, which remove Clause 2, inserted in this place against the wishes of the Government. We have removed the requirement that each Bill placed before Parliament be accompanied by a ministerial Statement explaining the extent to which the provisions are compatible with devolution. We are concerned with the reality of devolution. The Bill provides the necessary provisions to achieve genuine devolution of powers to those areas that want it. For many Bills, such a devolution statement would represent superfluous bureaucracy, having no implication for functions that can be devolved, such as national security, defence and international relations. The removal of the clause was not opposed in the other place and we remain of the view that these provisions should not be included in the Bill.

Amendment 6 removes the requirement that a mayor cannot be a precondition of transferring local authority or public authority functions to a combined authority. In our manifesto we specifically committed to,

“devolve far-reaching powers over economic development, transport and social care to large cities which choose to have elected mayors”.

Government policy, therefore, is expressly to make the transfer of local authority or public authority functions to a combined authority dependent on that local authority having a mayor. This is because, if areas are to have these new, far-reaching powers, they must adopt strong governance and accountability arrangements. People need to know who is responsible for decisions affecting their daily lives and who to hold to account.

However, we are not forcing mayors on anyone. Whether an area has a mayor and the far-reaching powers that come with having one is entirely a matter

for local areas. We want to hear from those areas what their proposals are, what powers and budgets they want devolved to them, and what governance arrangements they need to support those powers and budgets. But, if an area wants to have a devolution deal of the scale and ambition of Greater Manchester's, for those kinds of functions to be devolved, having a directly elected mayor is an essential prerequisite.

This requirement, which Amendment 6 removes, poses major risks to the delivery of the Greater Manchester and Sheffield city region deals. This is because, if the Government tried to make orders using the powers in new Section 107A to deliver these deals, there is a possibility that the courts would find that these deals contravened this statutory prohibition, the effect of which would be likely to result in no further orders being made to transfer additional functions to that area. This is an outcome that I doubt anyone would want. The other place divided twice and decided by majorities of 81 and 95 respectively to remove the requirement. The message from the elected House is clear. For these reasons, I hope noble Lords will agree to this amendment.

Amendments 7, 8, 15, 18, 21, 22, 23, 30 and 82 give more flexibility over how devolution can work for different places. The amendments build on the provisions we approved to further enhance the flexibility for existing combined authorities where one or more of the constituent local authorities do not wish to sign up to certain aspects of devolution.

As it left us, the Bill enabled a local authority to be removed from a combined authority if it does not agree to the combined authority's wish to adopt the position of mayor. These amendments enable one or more councils that do not want to adopt a mayor or to agree to the first devolution of powers to be removed from the combined authority. This means that councils that do not wish to agree to such aspects of the deal cannot be forced to, but neither can they prevent the combined authority and councils that do agree to the adoption of mayor or the devolved powers proceeding with these.

3.15 pm

Amendments 9, 12, 14, 17, 24, 25, 26, 27, 28, 42, 43, 44 and 76 simplify and harmonise the Bill's provisions relating to the local consents needed before powers can be conferred or exercised. As a general rule, the constituent authorities and the combined authority—where there is one—would need to consent before any secondary legislation is made. And where there is one, the mayor would need to consent before any secondary legislation can be made to change the area of a combined authority or specify any functions to be exercisable individually by a mayor.

Amendments 31, 32, 33, 80 and 81 enable combined authorities to be established, and functions conferred, on a more flexible basis. I will also speak to the amendment to Commons Amendment 31 which is in the name of the noble Lord, Lord Beecham. The Government made these amendments in the other place in response to powerful interventions by the Member for Sheffield South East and the chair of the Communities and Local Government Select Committee.

[BARONESS WILLIAMS OF TRAFFORD]

He and others on the opposition Benches were concerned that some areas were finding it challenging to secure agreement from all councils concerned about the geography over which a combined authority should be established.

The noble Lord, Lord Beecham, is seeking through his amendment to remove this additional flexibility—in effect to require that both district and county councils must consent before any changes to the combined authority or movement of functions can be made. I want to put it beyond any doubt that these amendments do not in themselves change any combined authority in any place. In line with the Bill's enabling approach, they purely provide additional flexibility in two-tier local government areas so that a district or county council would be able to join an existing combined authority with the agreement of the local authority itself and the combined authority, provided that the remaining statutory requirements are satisfied.

The amendments also make corresponding provision around membership of the combined authorities and enable powers to be conferred with the agreement of the same authorities. So a district council could join a combined authority if the combined authority and the district council consent: the county council's consent would not be needed. Or a county council could join a combined authority if the combined authority and the county council consent: the consent of the district councils in the two-tier local government area would not be needed. This means that, before laying a draft order to implement such provisions, the Secretary of State would need to be satisfied that making such a change would lead to an improvement of the exercise of the statutory functions and would also have regard to the need to secure effective and convenient local government and reflect effective and convenient local government. There would need to be a consultation on the proposed change to the area and each House of Parliament would, of course, need to approve such an order before it could be made.

I reassure noble Lords that the Government's aim, as it has been throughout the devolution discussions, is to build consensus, because that is how devolution will last. We will work with local areas to deliver economically sensible areas of devolution with effective governance. When exercising these powers, the Secretary of State has committed to maintain the preference for consensus which he has shown to date. The amendments are intended to provide that no council could unreasonably veto a proposal for an area to join an existing combined authority which the other councils involved and the combined authority agreed. At the very least, no authority can reasonably refuse to discuss with a neighbour the potential for reform. I hope that noble Lords will see the merits in these amendments and agree that they are in line with the enabling approach of the Bill.

I will now move to Amendments 34 to 39, which amend Clause 16 which streamlines the establishment of governance arrangements. In doing so, I hope to speak early to the amendment to Commons Amendment 36 which is in the name of the noble Lord, Lord Beecham. The Government accepted Amendment 36, which was a Back-Bench amendment tabled in the other place. It enables the Secretary of State to make regulations to

fast-track the process for structural or boundary change in relation to a two-tier council area without the need for the unanimous consent of the affected councils.

In considering this proposition, the Government further modified it to ensure that this provision would be piloted for a period of no longer than three years, expiring on 31 March 2019. Noble Lords will recall that we discussed the tensions that can result from the complexity of two-tier arrangements and how these might be simplified where there is a lack of consensus about how it might best be achieved. Similar concerns were also expressed in the other place about the potential for a council to effectively veto any proposals that might lead to the fast-tracking of any kind of structural or boundary change, however sensible and supported they might be.

We heard the arguments for and against the proposal and had much sympathy with the underlying proposition that, where there is a sensible structural change to be made which would benefit the wider area, it should not be possible for any one council in an area to effectively veto the consideration of such a proposal. That is why we accepted the amendment, but on the basis that it be piloted for three years. We have deliberately tied the end of the pilot to coincide with the Secretary of State's fourth devolution report to Parliament.

The noble Lord, Lord Beecham, is seeking to require a consenting local authority to demonstrate that it has made reasonable efforts to achieve local consensus for proposed changes to structural or boundary provision. I hope that the House will agree that the Secretary of State has made it quite clear that the way to proceed is through consensus. Any subsequent draft regulations would have to be approved by both Houses, and, at the same time as laying these, the Secretary of State is also required to lay before Parliament a report explaining the effect of the regulations, including a description of any consultation or information about representations considered by the Secretary of State. This would already enable Parliament to take a view on the extent to which efforts had been made to reach local consensus.

Above all, the crux of the matter is this: areas can already submit unitary proposals to the Secretary of State, with or without the consent of all local authorities, under the Local Government and Public Involvement in Health Act 2007. The amendment merely allows the Secretary of State to fast-track implementation where there is a strong case to proceed.

Amendments 34 and 35 and Amendments 37 to 39 are largely technical. They clarify the nature and range of matters that the Secretary of State can make regulations about, should he be asked to do so by areas putting any such proposals to him. They do not extend the scope of the provisions first presented to this House.

Amendments 10 and 11 provide additional options for a mayor to be supported in undertaking their mayoral functions. As it left this House, the Bill enabled a mayor to delegate general mayoral functions to the deputy mayor, or to a member or officer of the combined authority. These amendments enable a mayor to delegate functions specified by order to a committee appointed by the mayor, or to the deputy mayor for policing and crime.

Before it could be made, the order would, of course, need local consent, agreement from the Secretary of State and approval from Parliament. Amendments 13, 16 and 75 provide further flexibilities for mayoral combined authorities. They enable, if specified by order, mayors of combined authorities, if they so choose, to exercise any of their general functions jointly with other authorities or combined authorities with the same functions. The orders would specify the arrangements for any such joint committees, such as the establishment, membership, chairmanship, the number and appointment of members, and the voting powers of members.

These amendments also provide that mayoral functions to be exercised jointly must be exercised by a joint committee established by the mayor, and that such committees would be subject to the same requirements for access to meetings and papers as any other local authority committee. They would, for example, enable a joint committee comprising the mayors of two combined authorities, or a combined authority mayor and local authorities, to exercise their functions jointly across the area, providing greater flexibility about how mayors, combined authorities and local authorities can work together. We believe that these amendments provide genuine additional flexibility in the way in which mayors of combined authorities can discharge jointly—that is, where all the councils involved have that function and they see benefit in exercising it jointly over a wider area.

Amendments 62, 63, and 73 are drafting changes that clarify the timing of an order transferring PCC functions to an elected mayor and ensure that, in line with provisions for police and crime commissioners generally, a person acting temporarily in place of a mayor with PCC functions cannot carry out particular strategic functions such as issuing a police and crime plan.

Amendments 64 to 70 and 72 make minor drafting changes so that a deputy mayor appointed in respect of a police and crime commissioner's function is to be known as the deputy,

“mayor for policing and crime”,

rather than the deputy PCC mayor. This brings the Bill into line with arrangements in London, therefore providing clarity and consistency in the post title of mayoral deputies with police and crime commissioner functions.

Amendment 71 would enable the Secretary of State by order to give a police and crime panel scrutiny functions over the general functions of the mayor where those functions are ones that the mayor has arranged for the deputy mayor for policing and crime to exercise. This is necessary to ensure that scrutiny of these functions and any related functions are exercised by the most appropriate body: namely, the police and crime panel.

Finally, Amendments 78 and 79 enable functions to be discharged jointly, as well as concurrently, with economic prosperity boards.

Lord Kennedy of Southwark (Lab): My Lords, I will contain my remarks largely to the amendments of my noble friend Lord Beecham. Regarding some of the amendments that the Minister has mentioned, it is fair to say that we welcome the fact that the Commons has

accepted the points raised here by noble Lords, but we regret that some have not been agreed. I notice that the Minister said that it is up to local areas to agree whether they want to have mayors. That is correct but, standing here now, I think of the situation that Bristol finds itself in. It is uniquely, except for London, unable to decide that it does not want to have a mayor any more. We have discussed that issue before and it is regrettable.

I also find it hard to accept that a Government who talk about devolution and localism should then seek to impose structures, not allowing an authority to decide its own best form of governance. Is that really the right way forward? One of the problems with the Government's handling of these matters is in not always allowing a local authority to decide the proper mechanism for its area.

My noble friend Lord Beecham has tabled a number of amendments relating to Commons Amendment 31, which was put into the Bill very late in the day during consideration on Report in the other place. It is fair to say that this provision took local government by surprise. Considerable concern has been expressed about the aim to give districts and counties the right to request a governance change without regard to the other authority. It surely must be that seeking agreement by working in collaboration is the best way forward. I note what the Minister said about trying to get consensus but that is why my noble friend Lord Beecham has tabled his amendments. They are about ensuring that we get consensus on these things.

It would be helpful if the noble Baroness, Lady Williams of Trafford, could explain further how the government amendments came about. I know that she made reference to Mr Clive Betts, and I am conscious that the amendment came from him, but we want to know a bit more about the discussions that took place, including those with local government. Government Amendment 31 leaves too much to chance, which is why my noble friend seeks to ensure a more collaborative process.

The Minister explained the situation but it is fair to say that her explanation, although clear, was quite complicated. If it is complicated for this House, what is it going to be like on the ground? It will be even more complicated. Transport is now delivered by one area and education by another. We then have directly elected mayors and PCCs, with the possibility of the fire and rescue service also being taken over. This seems to me a recipe not for good governance but for confusion and a lack of democratic accountability.

I know the east Midlands very well, as I worked there for about 15 years. Both Derbyshire and Nottinghamshire are very well-run authorities. It has not come from these councils or authorities to have this provision; it has clearly come from a bit further north in Sheffield. I see no desire among local residents there to have different arrangements. As your Lordships will know, both counties have a proud history. Derby and Nottingham left them and are now unitary authorities. They are both large rural areas with large towns. They have a proud mining history but are also a centre for new start-up businesses and for more established businesses such as—

3.30 pm

Lord Scriven (LD): Will the noble Lord give way? I am a former leader of Sheffield City Council and a resident of the city. Has the noble Lord spoken to the leaders of Chesterfield and Bassetlaw councils, where people may have a different view to the one he has just expressed?

Lord Kennedy of Southwark: I have not spoken to the leaders of Chesterfield or Bassetlaw councils but I have spoken to the leaders of Derbyshire County Council and Nottinghamshire County Council. It is an area I know quite well, but I accept we are not going to agree on all our points.

This is also an area of considerable natural beauty with a thriving tourism industry. I would be grateful if the noble Baroness could talk about the devolution deal for Nottinghamshire and Derbyshire. Discussions are taking place with those councils, but there are concerns. They are worried that any deal there will be potentially undermined by having further discussions about other councils leaving that area. This is not a good way of going forward.

Lord Shipley (LD): My Lords, there are advantages and disadvantages when this House considers a Bill in advance of the House of Commons. The advantages are that we can take an early view of proposals and make suggestions for the other place to consider. Among the disadvantages is that we can be asked to consider a very large number of amendments from the Government at a very late stage. This afternoon, we have 87 government amendments, of which 59 are in this group alone. This adds to the complexity and means that we have to be very careful in agreeing to amendments, as we have not had fuller consideration of them in Committee.

That said, in many cases, the amendments proposed by the Government improve the Bill. They clarify and enable, and they promote localism. We will shortly, I hope, have a further discussion about Amendments 31A and 36A, but the Minister has moved that we agree with Amendments 1 to 18 at this stage, and I want to say one or two things about the overall content and context of the amendments under discussion. The promotion of localism has to be a partnership if it is to be successful, which I think is what the Minister has said. For that reason, the additional powers now being proposed for the Secretary of State need to be used very sparingly, and I hope we will hear from the Minister further confirmation as the afternoon progresses that this is indeed the Government's intention. In that context, Amendments 31, 31A, 36 and 36A are extremely important, and I support the amendments which will be moved later this afternoon by the noble Lord, Lord Beecham.

We have also received the advice of the Delegated Powers and Regulatory Reform Committee, which published its comments on 22 December. That committee rightly pointed out that when we considered the Bill in the summer, the Government gave assurances that the powers of the Secretary of State over brokering bespoke deals would be constrained by the need for all councils in a given area to consent. That requirement no longer has to apply, at least until March 2019.

On these Benches we have always been strong advocates of localism and the further devolution of powers to local authorities or combinations of them. But partnership and consent matter if devolution is to work. For that reason, I hope that we will hear assurances from the Minister that the powers will be used very sparingly, that they will only be used in circumstances that promote effective localism and that the procedural guarantees sought by the noble Lord, Lord Beecham, will be followed so that local authorities are encouraged to work collaboratively together.

I have two further points. The Minister referred to the fact that there will be an annual report. I am very pleased about that in the context of all our debates in Committee and on Report. Although not all of the amendments proposed by your Lordships' House were agreed in the other place, the annual report will give a focus for clarifying and sharing what has happened, what good practice has been promoted and which pilots have proved successful. It is very important that that does not stay in Whitehall with Ministers but is shared with the whole country. I hope that the Minister will be able to confirm that not only will that annual report be issued but this House will have the opportunity to debate it.

The second issue I want to draw attention to from the Minister's opening speech is her use of the words strong governance. She said that an elected mayor model is a model for strong governance, so that the public know where responsibilities lie. I have expressed doubts about the single-leader model and the ability of a single person to do so many things—perhaps, to be the police and crime commissioner or to take on responsibility through the combined authority structure for fire and rescue. If NHS matters or responsibility for children's services are to be devolved to a combined authority level, it seems difficult for one person to do so very much and remain democratically accountable. I can hear the Minister's reply, which will be that those matters will then be devolved to other leaders within the combined authority. We have had these debates before in the summer. Of course, we do not have elected mayors yet in most places and will not for the next two or three years, but it will be very important to review how they are performing as part of the annual report.

I have two concerns about this in a democratic sense. One is that councillors of constituent authorities will know less and less about what is actually happening in their areas because more and more decisions will effectively be centralised. Secondly, the general public may not understand who will be responsible for a decision and where it should be challenged if they do not agree with it. Reviewing that constantly seems very important.

That is all I want to say at this stage. I may say a bit more when the noble Lord, Lord Beecham, moves his amendments to Amendments 31 and 36 but, for the moment, I think that there is a different mood in England now about devolution. There are problems and, in some places, occasional conflicts, but, in the main, there is a willingness to accept devolved powers from Whitehall and Westminster—indeed, a very strong desire to do so. The moves of the previous Government and this one have demonstrated that the appetite is there for those devolved powers to be granted.

Lord Beecham (Lab): My Lords, for the avoidance of doubt, I should say that, although I am speaking from the Back Benches, I have not resigned from the Front Bench, nor have I yet been removed from it.

I am grateful to the Minister for the meeting she held yesterday to explain the 50 or so amendments in this group—almost constituting a Bill in themselves. In addition to the points made by my noble friend Lord Kennedy, I would be grateful if she explained in more detail the effect of Amendment 34 on electoral arrangements. What would be covered by the order-making power? Would it extend to ward boundary changes, council size or the electoral cycle? Will the function be carried out by the Secretary of State or the Electoral Commission? If there is to be secondary legislation, will it be by affirmative resolution?

The noble Lord, Lord Shipley, has already referred to the report of the Delegated Powers and Regulatory Reform Committee. In a spirit of consensus, no doubt, he did not quite quote the committee's rather stringent comments about the way the Government have proceeded. Paragraph 2 of the report states:

"Amendment 36 is one of a number of amendments to clause 16 of the Bill. Clause 16 confers a power on the Secretary of State by regulations to make changes to the governance arrangements, constitution and membership, and the structural and boundary arrangements".

Having considered the Government's response, the committee concluded:

"We remain of the view that the powers conferred by clause 16 are inappropriate in the absence of the kinds of constraints and protections which apply to combined authorities under Part 6 of the Local Democracy, Economic Development and Construction Act 2009. Amendment 36, which will have the effect of weakening the consent regime under clause 16, serves only to strengthen our view in this regard".

The report was published on 22 December. We are now half way through January and the Government have not yet responded except, by implication, to reject it by ignoring it. Perhaps the Minister will give some explanation of the Government's position on the Delegated Powers and Regulatory Reform Committee's report.

More generally, it is necessary to ask whether the Government have thought through the implications of the impact of some of the changes the amendments in this group and the other groups may have on the existing local government structure if, for example, district councils in two-tier areas join combined authorities, as is apparently envisaged in the case of some districts in Derbyshire and Nottinghamshire. They may join for the purposes of participating in infrastructure schemes or economic development while remaining within their county councils for other services, for example, education or social care. What if the combined authority then seeks to take responsibility for the NHS? This is happening in Greater Manchester. My noble friend Lord Smith will no doubt enlighten us on the progress that is being made there, which will be watched with interest, not to say fascination, by others in local government.

What happens in areas where district councils depart from their county for some purposes but not for others? Would public health and child and adult services have to be transferred to the combined authority, given that Amendments 21 and 22 refer only to the consent of members of the combined authority? If so, what impact might that have on the services in what is

left of the county council? This is one of the effects of Amendment 45, which revokes the requirement for a local authority to consent to regulations revoking a transfer of functions where the revocation relates to health service functions. If not, what is the purpose of Amendment 45? Further, what, if any, are the implications for police and fire services, on which the noble Lord, Lord Shipley, briefly touched?

Moreover, given that the revenue support grant is to disappear and the entirety of business rates will henceforth accrue to local authorities, have the Government thought through the implications for areas in which districts might opt to join the neighbouring combined authority for some purposes—for example, economic development—but not others? Where would the business rates generated in those districts go? If they go in whole or in part to the district or the combined authority, is there not a risk that services to other parts of the existing county, which would have benefited from business rates in that area, will suffer a potential risk because they may not have a proportionate business rate income, actual or potential, in the rest of the county and may suffer as a result? Are these the sort of matters the Secretary of State will consider under Amendments 23 and 42? If so, what criteria are envisaged to apply?

The amendments in my name have effectively been more than adequately covered by my noble friend Lord Kennedy. The need for a consensual approach, which I think is right, was acknowledged by Ministers in what was almost a last-minute debate on the Bill in the House of Commons. However, the amendments seek only to strengthen the process under which conclusion might be reached; they do not postulate a particular outcome but emphasise the importance of seeking consensus, particularly among the communities that would be affected, not only within those districts that might seek to join in a combined authority but in the residual area of the county that may be affected by that decision.

3.45 pm

There are people in local government, and I am one of them, who might be accused of being paranoid about this Government's attitude to local government, but that is because it is very difficult to avoid the conclusion after the past five and a half years that they are out to get us in so many ways. It must be asked: are these measures the first step towards a further wholesale reorganisation of local government, beginning but not necessarily ending with the disappearance of two-tier local government in the counties? Will the Government disavow any such intention and any aspirations to replace existing unitary councils by transferring their functions to an elected mayor and a single elected combined authority? I dare say that my noble friend Lady Hollis may have some views on that point, which she has made before forcefully and with her customary eloquence.

Is there any question of merging or reorganising what may be truncated counties shorn of significant population? If, to take a couple of counties at random, Nottinghamshire and Derbyshire were to find that a significant number of district councils had elected to join a combined authority—if that had been agreed by whatever process, including consensus—and they were left shorn of a substantial income base and a substantial population, would the temptation not then arise for the

[LORD BEECHAM]

Government to suggest that the residual parts of Nottinghamshire and Derbyshire should be combined into a new authority? That would be a massive and radical change.

The concept of devolution is welcome but, as has previously been made clear by noble Lords in discussing the Bill, and indeed today by my noble friend Lord Kennedy and the noble Lord, Lord Shipley, there is real concern about these and other aspects, not least the Government's adoption of what might be called the Henry Ford approach—insisting upon having an elected mayor as a condition of the devolution deal. In this case, it is not a question of having any colour car as long as it is black; rather, you can have devolution as long as you have an elected mayor. However, there remains a major question as to whether the Government's new model structures would be supplied with sufficient petrol in their fuel tanks.

Baroness Williams of Trafford: My Lords, I thank all noble Lords who have spoken in this debate. I shall start with the question from the noble Lord, Lord Kennedy, about two-tier authorities and what sorts of discussions we have been involved with. On a personal level, I have spoken to councils up and down the country. While I agree with the noble Lord, Lord Scriven, that there is not consensus across the country, there is certainly the feeling that in some areas districts might feel vetoed by counties and vice versa, so this provision will enable either districts or counties to move in the way that they would wish. Consensus is of course the thing that we are seeking, but we also do not want authorities to be able to veto others in the aims that they seek to achieve.

The noble Lord asked me about transport across combined authority areas. We shall get on to transport in later groups, but of course Transport for the North, which will cover a vast area, will deal with just that issue, because of course transport does not start at one local authority boundary and finish at the other end of it; it transcends areas and is ideally placed to be dealt with on that much broader scale.

To go back to the first point, I understand that officials have held discussions with the County Councils Network and with the authorities involved—I am going beyond what I have been doing. Extensive discussions have taken place across the country.

The noble Lord also talked about the Bristol issue. Noble Lords will recall that an amendment was moved in this place, which the other place accepted, which put the Bristol mayor in the same position as mayors of other authorities, so that the local electorate can petition for a referendum to be held on whether mayoral governance in Bristol should continue and such a referendum is able to be held after the 10-year moratorium period—therefore from 2022. The other place accepted this as Clause 21 as the Bill left the other place.

The noble Lord, Lord Shipley, talked about powers being used very circumspectly. As the Secretary of State made clear in the other place, when he exercises those powers which the amendments made in the other place have given him, he will maintain the preference for consensus which he has shown to date, and the Government's aim is to build on that consensus.

The noble Lord also talked about the large number of amendments which have come back to this House, and I agree with him that there are a large number. However, he also talked about the sensibleness of most of those amendments and about the need to work in partnership. He is absolutely right that devolution will not be effective in the long term unless partnership is effective. That is why the word “consensus” has been mentioned so much in today's debate, because unless those local authorities can work together, they will not succeed in their aims for growth and other things.

The noble Lord also asked for further assurances that the powers will be used sparingly and that the point made by the noble Lord, Lord Beecham, would be reflected in the annual report. I hope that in my initial speech I gave those assurances, and I will give them again. Of course what will go into the report will be a matter for Bill managers, but I hope that I have made my feelings clear on that.

Both the noble Lords, Lord Shipley and Lord Beecham, talked about the Delegated Powers and Regulatory Reform Committee. I wrote yesterday—and I accept some criticism for the lateness of that letter—about Amendment 36, that,

“the context for these regulations making provision about local authority structures will be the implementation of devolution deals, specifically fast tracking the processes of such legislation as the Local Government and Public Involvement in Health Act 2007. I also commented”—

back on 29 June—

“as you rightly refer, to the need for consent by all councils being sufficient safeguard that fast tracking will not remove inappropriately any essential constraint or protection. Notwithstanding this, we subsequently introduced a further safeguard by requiring that the use of this regulation power must be accompanied by the transparency given by a specific report to Parliament setting out the context (i.e. describing the bespoke deal) and providing information about any consultations or representations in connection with the regulations”.

Lord Tyler (LD): My Lords, I serve on the Delegated Powers and Regulatory Reform Committee. The Minister will recall that this is not the first time she has been put in an impossible situation. With great respect to her, in the light of the very serious concerns and anxieties expressed by that committee about this section of the Bill and the powers given to the Minister under the Bill, it is not good enough for her to be provided with that text to read to the House at this stage without us being given an opportunity to see its significance. We in the committee took great care, with very good advice, over how these powers were going to be exercised. The department has put the Minister in an impossible situation. It had all last week—I assume that those in the department were working—to get this information to the House, and your Lordships should be given the opportunity to see these things in print rather than having to rely on the Minister. She has been put in this position twice. She should have the best possible advice and support, and she should go back to the department and say “Not good enough”.

Baroness Williams of Trafford: My Lords, I can but apologise for the fact that the letter has arrived late and I hope noble Lords will accept that apology from me. However, I accept the noble Lord's point.

Amendment 45, referred to by the noble Lord, Lord Beecham, enables the Secretary of State to revoke orders conferring health functions on a combined authority. I hope the noble Lord will be slightly patient—perhaps we can come to that in a later grouping when my noble friend Lord Prior will be talking about health.

The noble Lord, Lord Beecham, also asked me, I think, what happens to business rates if a district joins a combined authority without a county. There is no direct relationship between the membership of the combined authority and the business rates, which will be subject to further legislation. I hope that that helps the noble Lord.

Lord Beecham: It depends on the legislation, although I do not envisage that the noble Baroness will be in quite the same position in that context as she has been over the point that she has just made. Can she indicate what time period we are looking at and what consultation will take place over that issue, and with whom?

Baroness Williams of Trafford: My Lords, I expect a very quick timescale, given that some devolution deals have already been done. Time would be of the essence in getting these matters through, so I would expect the consultation process and the regulations to be dealt with fairly quickly. That is imperative, given that devolution deals have been done with different places. I hope that that is good enough for him.

The noble Lord also asked me about Amendment 34. The regulations will be subject to the affirmative resolution procedure and the amendment makes clear exactly what procedures can be fast-tracked. These include changes to electoral arrangements but the Boundary Commission's responsibilities remain unchanged. I think we went through that yesterday but I am very happy to confirm that, as it is a very important point.

The noble Lord also asked me whether the Government are trying to reorganise local government. The answer is no. We are here to assist where local government wants to reorganise itself in terms of unitarisation. He also asked whether we are taking a Henry Ford approach. I hope that Cornwall shows that we are not. It will be up to local authorities to come forward with their proposals for their areas in due course.

I have been passed a note which says that—if I can read the writing—regarding business rates, “future legislation” means primary legislation, which we will bring forward as parliamentary time allows. I hope that I have satisfied noble Lords in all the questions that they have raised.

Lord Kennedy of Southwark: Perhaps the noble Baroness could say a bit more. Regarding my noble friend's Amendment 31C, I agree that we should move forward on a basis of consensus. I also agree that no council should have a veto. I accept that entirely, as it would just stop things happening. However, that is why my noble friend's amendment says that either council may make a referral to the Secretary of State. His intention is to avoid that happening; equally, his intention is to get consensus where we can. Can she say why she will not accept that amendment?

Baroness Williams of Trafford: My Lords, we are trying to find the fine line here between consensus and councils not being able to veto the wider wish. I hope that that, in my own words, explains why we do not want to accept that amendment.

Motion agreed.

4 pm

Motion on Amendments 19 and 20

Moved by Baroness Williams of Trafford

That this House do agree with the Commons in their Amendments 19 and 20.

19: Clause 8, page 9, line 6, after “liabilities” insert “(including criminal liabilities)”

20: Clause 8, page 9, line 15, at end insert—

“(5A) Subsection (5B) applies where an order under subsection (1) contains a reference to a document specified or described in the order (for example, in imposing a condition by virtue of subsection (2)(a) for an authority to have regard to, or to comply with, a statement of policy or standards set out in the document).

(5B) If it appears to the Secretary of State necessary or expedient for the reference to the document to be construed—

(a) as a reference to that document as amended from time to time, or

(b) as including a reference to a subsequent document that replaces that document, the order may make express provision to that effect.

(5C) See also section 19 of the Cities and Local Government Devolution Act 2015 (devolving health service functions) which contains further limitations.”

Baroness Williams of Trafford: My Lords, I beg to move that the House do agree with the Commons in its minor and technical Amendments 19, 20, 40, 41, 55 to 61, 83 and 84. Amendments 19 and 40 ensure that the reference to “document” in regulations is construed as referring to that document as it may subsequently be amended from time to time or replaced.

Amendments 20 and 41 ensure that it is possible to transfer along with a function the criminal liabilities associated with that function.

Amendment 55 makes it clear that, in addition to the ability to make any changes to legislation that may be needed in consequence of any of the provisions in this Bill, the Secretary of State also has the power to make regulations which make necessary changes following the making of secondary legislation made under the powers in the Bill.

Amendments 56 to 61, 83 and 84 provide that where the Secretary of State has powers in relation to certain electoral matters, those powers may also be exercised concurrently with the Chancellor of the Duchy of Lancaster. These amendments ensure consistency with similar powers to make secondary legislation regarding the conduct of elections in the Local Government Act 2000.

Motion agreed.

Motion on Amendments 21 to 30

Moved by Baroness Williams of Trafford

That this House do agree with the Commons in their Amendments 21 to 30.

21: Clause 8, page 9, line 35, leave out from beginning to “and” in line 36 and insert “the appropriate consent is given”

22: Clause 8, page 9, line 38, at end insert—

“(1A) For the purposes of subsection (1)(b), the appropriate consent is given to the making of an order under section 105A only if—

(a) in the case of an order in relation to an existing combined authority, each appropriate authority consents;

(b) in any other case, each constituent council consents.

Paragraph (a) is subject to subsections (1B) and (1C).

(1B) Subsection (1C) applies where—

(a) an order under section 105A in relation to an existing combined authority is the first such order to be made in relation to that authority,

(b) the authority is not a mayoral combined authority, and

(c) there are one or more constituent councils who do not consent to the making of the order.

(1C) For the purposes of subsection (1)(b), the appropriate consent is given to the making of the order if the combined authority and at least two constituent councils consent to the making of the order.

(1D) Where an order under section 105A is made by virtue of subsection (1C) of this section, the Secretary of State must make an order under section 106 to remove the area of each non-consenting constituent council from the existing area of the combined authority.

(1E) The requirement in subsection (1)(b) for the appropriate consent to be given to the making of an order under section 105A does not apply where—

(a) the order revokes (in whole or in part), or otherwise amends, a previous order under that section, and

(b) the only purpose of the order is to provide for a health service function of a combined authority to cease to be exercisable by the authority.

(1F) In subsection (1E)(b), “health service function of a combined authority” means a function which—

(a) relates to the health service, as defined by section 275(1) of the National Health Service Act 2006, and

(b) is exercisable by the combined authority by virtue of an order under section 105A.

(1G) The requirement in subsection (1)(b) for the appropriate consent to be given is subject to section 106A.”

23: Clause 8, page 10, line 12, at end insert—

“and a “constituent council” is a council within paragraph (a) or (b).”

24: Clause 10, page 10, line 30, leave out “so far as the constituent councils consent,” and insert “subject to subsection (10A),”

25: Clause 10, page 10, line 32, at end insert—

“(10A) Regulations under this section by virtue of subsection (8) that include provision within subsection (10)(b) may be made only with the consent of—

(a) the constituent councils, and

(b) in the case of regulations in relation to an existing combined authority, the combined authority.

(10B) Subsection (10A) is subject to section 106A of the Local Democracy, Economic Development and Construction Act 2009 (which enables regulations to be made without the consent of all the constituent councils in certain circumstances).”

26: Clause 10, page 10, line 36, leave out “(10) and” and insert “(8) to”

27: Clause 10, page 11, line 14, at end insert “, and

() in the case of regulations in relation to an existing combined authority, the combined authority.”

28: Clause 10, page 11, line 14, at end insert—

“(6A) Subsection (6) is subject to section 106A of the Local Democracy, Economic Development and Construction Act 2009 (which enables regulations to be made without the consent of every authority within paragraph (a) and (b) of that subsection in certain circumstances).”

29: Clause 10, page 11, line 26, at end insert—

“() In section 105 of the Local Democracy, Economic Development and Construction Act 2009 (constitution and functions of combined authorities: economic development and regeneration), omit subsection (4).”

30: Clause 11, page 11, line 38, leave out “the” and insert “a”

Motion on Amendments 21 to 30 agreed.

Motion on Amendment 31

Moved by Baroness Williams of Trafford

That this House do agree with the Commons in their Amendment 31.

31: Clause 15, page 14, line 33, at end insert—

“() In section 104 (constitution and functions of combined authorities: transport), after subsection (9) (inserted by section 9(1) above) insert—

“(10) An order under this section may be made in relation to a combined authority only with the consent of—

(a) the constituent councils, and

(b) in the case of an order in relation to an existing combined authority, the combined authority.

(11) In subsection (10) “constituent council” means—

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

or

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

(12) Subsection (10) is subject to section 106A.”

() In section 105 (constitution and functions of combined authorities: economic development and regeneration), after subsection (3) insert—

“(3A) An order under this section may be made in relation to a combined authority only with the consent of—

(a) the constituent councils (as defined by section 104(11)), and

(b) in the case of an order in relation to an existing combined authority, the combined authority.

(3B) Subsection (3A) is subject to section 106A.”

() In section 106 (changes to boundaries of a combined authority’s area)—

(a) in subsection (2), omit paragraph (b);

(b) omit subsection (3);

(c) after subsection (3) insert—

“(3A) An order under this section adding or removing a local government area to or from an existing area of a combined authority may be made only if—

(a) the relevant council in relation to the local government area consents,

(b) the combined authority consents, and

(c) the mayor for the area of the combined authority (if it is a mayoral combined authority) also consents.

(3B) For the purposes of subsection (3A)(a), the “relevant council” in relation to a local government area is—

(a) if the local government area is the area of a county council, the county council;

(b) if the local government area is the area of a district council whose area does not form part of the area of a county council, the district council;

(c) if the local government area is the area of a district council whose area forms part of the area of a county council, the district council or the county council.

(3C) If there are two relevant councils in relation to a local government area by virtue of subsection (3B)(c), the condition in subsection (3A)(a) for the relevant council to consent is met if—

(a) in the case of an order under subsection (1)(a), either or both of the relevant councils consent;

(b) in the case of an order under subsection (1)(b), both of the relevant councils consent.

(3D) Subsections (2) and (3A) do not apply to an order under subsection (1)(b) that is made as a result of the duty in section 105B(1D) or 107B(4).”

() After section 106 insert—

“106A Section 106(1)(a) orders: consent requirements under other powers

(1) Subsection (2) applies where—

(a) the area of a district council is added to the area of a combined authority by an order under section 106(1)(a),

(b) the area of the district council forms part of the area of a county council,

(c) the Secretary of State proposes to exercise a relevant power as a result of, or otherwise in connection with, the making of the order, and

(d) (apart from subsection (2)) the relevant power is exercisable only with the consent of (among other authorities) the county council mentioned in paragraph (b).

(2) The relevant power is exercisable whether or not the county council consents.

(3) Subsection (4) applies where—

(a) the area of a county council is added to the area of a combined authority by an order under section 106(1)(a),

(b) the area of the county council includes the areas of district councils,

(c) the Secretary of State proposes to exercise a relevant power as a result of, or otherwise in connection with, the making of the order, and

(d) (apart from subsection (4)) the relevant power is exercisable only with the consent of (among other authorities) a district council within paragraph (b).

(4) The relevant power is exercisable whether or not the district council consents.

(5) In this section, “relevant power” means a power—

(a) to make an order under section 104, 105 or 105A, or

(b) to make regulations under—

(i) section 74 of the Local Government Finance Act 1988 (by virtue of subsection (8) of that section), or

(ii) section 23(5) of the Local Government Act 2003.””

Amendments 31A to 31C, as amendments to Amendment 31, not moved.

Motion on Amendment 31 agreed.

Motion on Amendments 32 to 35

Moved by Baroness Williams of Trafford

That this House do agree with the Commons in their Amendments 32 to 35.

32: Clause 15, page 15, leave out line 25

33: Clause 15, page 15, leave out lines 38 to 42

34: Clause 16, page 16, line 4, leave out from “arrangements” to end of line 6 and insert “, or electoral arrangements, in relation to local authorities under Part 1 of the Local Government and Public Involvement in Health Act 2007 or under Part 3 of the Local Democracy, Economic Development and Construction Act 2009.”

35: Clause 16, page 16, line 9, at end insert—

“() Regulations under this section may in particular make provision—

(a) about how the enactments mentioned in subsection (1) or (2) are to apply in relation to particular cases (including by disapplying the application of any such enactment to a particular case or applying it subject to any variations that are specified in the regulations);

(b) about any of the matters listed in section 11(3) or (4) of the Local Government and Public Involvement in Health Act 2007 (including provision in relation to such matters of a kind mentioned in section 12 of that Act).

Nothing in paragraph (a) limits the power to make provision under subsection (4)(c).”

Motion on Amendments 32 to 35 agreed.

Motion on Amendment 36

Moved by Baroness Williams of Trafford

That this House do agree with the Commons in their Amendment 36.

36: Clause 16, page 16, line 11, at end insert—

“(3A) Regulations under this section, so far as including structural or boundary provision in relation to a non-unitary district council area, may be made if at least one relevant local authority consents.

(3B) Local authority in this case is defined as—

(a) a non-unitary district council whose area is, or forms part of, the non-unitary district council area;

(b) a county council whose area includes the whole or part of the nonunitary district council area.

(3C) Relating to subsections (3A) and (3B)—

“non-unitary district council area” means the area or areas of one or more non-unitary district councils;

“non-unitary district council” means a district council for an area for which there is also a county council;

“structural or boundary provision” means provision about the structural or boundary arrangements of local authorities in regulations made by virtue of subsection (1)(c).

(3D) Subsections (3A) to (3C) expire at the end of 31st March 2019 (but without affecting any regulations already made under this section by virtue of subsection (3A)).”

Amendment 36A, as an amendment to Amendment 36, not moved.

Motion on Amendment 36 agreed.

Motion on Amendments 37 to 44

Moved by Baroness Williams of Trafford

That this House do agree with the Commons in their Amendments 37 to 44.

37: Clause 16, page 16, line 13, at end insert—

“() includes power to make different provision for different purposes;”

38: Clause 16, page 16, line 14, after “make” insert “incidental, supplementary, consequential,”

39: Clause 16, page 16, line 17, at end insert—

“() Section 15 of the Local Government and Public Involvement in Health Act 2007 (power to transfer of functions, property etc as part of incidental etc provision) applies in relation to subsection (4)(b) above as it applies in relation to sections 13 and 14 of that Act.”

40: Clause 17, page 17, line 23, after “liabilities” insert “(including criminal liabilities)”

41: Clause 17, page 17, line 32, at end insert—

“(5A) Subsection (5B) applies where regulations under subsection (1) contain a reference to a document specified or described in the regulations (for example, in imposing a condition by virtue of subsection (2)(a) for an authority to have regard to, or to comply with, a statement of policy or standards set out in the document).

(5B) If it appears to the Secretary of State necessary or expedient for the reference to the document to be construed—

(a) as a reference to that document as amended from time to time, or

(b) as including a reference to a subsequent document that replaces that document, the regulations may make express provision to that effect.

(5C) See also section 19 (devolving health service functions) which contains further limitations.”

42: Clause 18, page 17, line 48, after “authority” insert “by whom a function becomes exercisable by virtue of the regulations”

43: Clause 18, page 18, line 2, after second “the” insert “relevant”

44: Clause 18, page 18, line 6, after “make” insert “incidental, supplementary, consequential,”

Motion on Amendments 37 to 44 agreed.

Motion on Amendments 45 to 51

Moved by Lord Prior of Brampton

That this House do agree with the Commons in their Amendments 45 to 51.

45: Clause 18, page 18, line 9, at end insert—

“(2A) The requirement in subsection (1)(a) for the relevant local authority to consent to the making of regulations under section 17 does not apply where—

(a) the regulations revoke (in whole or in part), or otherwise amend, previous regulations under that section, and

(b) the only purpose of the regulations is to provide for a health service function of the relevant local authority to cease to be exercisable by the authority (which may include provision under subsection (2)(b) in relation to that purpose).

(2B) In subsection (2A)(b), “health service function of a relevant local authority” means a function which—

(a) relates to the health service, as defined by section 275(1) of the National Health Service Act 2006, and

(b) is exercisable by the authority by virtue of regulations under section 17.”

46: Clause 19, page 18, leave out lines 29 to 33 and insert—

“(1) Regulations under section 17 of this Act or an order under section 105A of the Local Democracy, Economic Development and Construction Act 2009 (transfer of public authority functions to combined authorities) (“the 2009 Act”)—

(a) must not transfer any of the Secretary of State’s core duties in relation to the health service;”

47: Clause 19, page 18, line 34, leave out “or supervisory”

48: Clause 19, page 18, line 36, leave out from “must” to first “the” in line 37 and insert “, if transferring functions relating to the health service to a local authority or a combined authority, make provision about the standards and duties to be placed on that authority having regard to”

49: Clause 19, page 18, line 38, leave out from “on” to “being” in line 39 and insert “the authority responsible for the functions”

50: Clause 19, page 18, line 40, at end insert—

“(2) For the purposes of subsection (1)(a), “the Secretary of State’s core duties in relation to the health service” means the duties of the Secretary of State under—

(a) sections 1 to 1G of the National Health Service Act 2006 (“the NHS Act 2006”) (duty to promote comprehensive health service etc.),

(b) sections 6A to 6BB of that Act (duties regarding the reimbursement of costs of services provided in another EEA state),

(c) section 12E of that Act (duty as respects variation in provision of health services),

(d) sections 13A, 13B, 13U and 223B of that Act (duties regarding mandate to, and annual report and funding of, the NHS Commissioning Board),

(e) section 247C of that Act (duty to keep health service functions under review),

(f) section 247D of that Act (duty to publish annual report on performance of the health service in England),

(g) section 258 of that Act (duty regarding the availability of facilities for university clinical teaching and research), and

(h) sections 3 to 6 of the Health Act 2009 (duties in relation to the NHS Constitution and the Handbook to it), in so far as those duties would (apart from subsection (1)(a)) be transferable by regulations under section 17 or an order under section 105A of the 2009 Act.

(3) For the purposes of subsection (1)(b)—

(a) “health service regulatory function” means a function in relation to the health service which is a regulatory function within the meaning given by section 32 of the Legislative and Regulatory Reform Act 2006,

(b) the functions of the National Health Service Commissioning Board under Chapter A2 of Part 2 of the NHS Act 2006 (clinical commissioning groups) are to be treated as “health service regulatory functions” in so far as they do not fall within the definition in paragraph (a), and

(c) functions exercisable by a body by virtue of directions given under section 7 of the NHS Act 2006 (functions of Special Health Authorities) are not “vested in” that body.

(4) But subsection (1)(b) does not prevent the transfer of functions of the National Health Service Commissioning Board which—

(a) arise from arrangements under section 1H(3)(a) of the NHS Act 2006 (provision of services for the purpose of the health service), and

(b) relate to those providing services under those arrangements.

(5) For the purposes of subsection (1)(c), “national service standards” means the standards contained in any of the following—

(a) the NHS Constitution (within the meaning of Chapter 1 of Part 1 of the Health Act 2009);

(b) the standing rules under section 6E of the NHS Act 2006 (regulations as to the exercise of functions by the NHS Commissioning Board or clinical commissioning groups);

(c) the terms as to service delivery required by regulations or directions under the NHS Act 2006 for contracts or other arrangements for the provision of primary medical services, primary dental services, primary ophthalmic services or pharmaceutical services under Part 4, 5, 6 or 7 of that Act;

(d) the recommendations or guidance of the National Institute for Health and Care Excellence made or given pursuant to regulations under section 237 of Health and Social Care Act 2012;

(e) the quality standards prepared by that Institute under section 234 of that Act;

(f) the guidance published under section 14Z8 of the NHS Act 2006 (guidance on commissioning by the NHS Commissioning Board); and such standards are “placed on” a body if the body is required to have regard to or comply with them.

(6) For the purposes of subsection (1)(c)—

(a) “national information obligations” means duties regarding the obtaining, retention, use or disclosure of information, and

(b) “national accountability obligations” means duties (for example, those to keep accounts or records, or to provide or publish reports, plans or other information) which enable the management of a body, or the way in which functions are discharged, to be examined, inspected, reviewed or studied.

(7) For the purposes of this section, a function is transferred by regulations under section 17 or by an order under section 105A of the 2009 Act, if—

(a) provision is made under subsection (1)(a) of the section in question for the function to be the function of a local authority or a combined authority, or

(b) provision is made under subsection (1)(b) of that section for a function corresponding to the function to be conferred on a local authority or a combined authority.

(8) Nothing in this section prevents the conferral on a local authority or a combined authority of duties to have regard to, or to promote or secure, the matters mentioned in sections 1 to 1F of the NHA 2006 when exercising a function transferred to it by regulations under section 17, or by an order under section 105A of the 2009 Act.

(9) In this section, “the health service” has the meaning given by section 275(1) of the NHA 2006.”

51: After Clause 19, insert the following new Clause—

“Amendments of the National Health Service Act 2006 Schedule (Amendments of the National Health Service Act 2006) contains amendments of the National Health Service Act 2006 in connection with the exercise of health service functions of combined or local authorities and the control of information about local authority social care.”

Lord Prior of Brampton (Con): My Lords, I beg to move that the House do agree the Motion on Commons Amendments 45 to 51. I shall speak also to other amendments in the group, including the clause inserted in the Bill following Clause 19 by Amendments 51 and 74.

Your Lordships will remember our debates on the issue of safeguards for the devolution of NHS functions, culminating in the insertion of the amendment from the noble Lord, Lord Warner, at Third Reading, against the Government’s wishes. We have now accepted this amendment and have worked to provide even further assurances. I am grateful to the noble Lord, Lord Warner, for his ongoing co-operation and for his support for the further amendments as introduced in Committee in the other place. These amendments provide further clarity about the role of the Secretary of State for Health and what may and may not be included in any future transfer order giving local organisations devolved responsibility for health services.

The clause as amended also includes clear provision to exclude from the scope of transfers the oversight role of NHS England in relation to CCGs, and makes it clear that local devolution settlements do not change the responsibilities of our NHS regulators or their functions in protecting the interests and safety of patients.

The provision of the noble Lord, Lord Warner, as amended, protects the integrity of the National Health Service and makes it clear that, whatever devolution arrangements might be agreed with a particular area, the Secretary of State’s core duties in relation to the health service will not be altered. These clear statements in legislation, making provision for the protection of the integrity of the National Health Service, are intended to provide further confidence in future devolution deals. The amendments to the clause give further definition and clarity to support the valuable principles behind the amendment of the noble Lord, Lord Warner, and I commend them to the House.

Places such as Greater Manchester and London are calling for the ability to design and deliver better health and care services and the ability to make decisions at a level that works best for their communities, either locally or, where it makes more sense, at a regional or sub-regional level.

As we know, devolution deals must be tailored to the particular needs and circumstances of a local area. The Bill already allows government to devolve a range of powers and functions currently carried out by Whitehall departments or bodies such as NHS England to a combined authority or a local authority. In seeking

to introduce Schedule 3A, which amends the NHS Act 2006, we are now taking the opportunity to make available further options in health legislation for combined authorities and local authorities to work together with clinical commissioning groups and NHS England across a wider area, such as Greater Manchester, to improve integration of services.

Crucially, wherever a responsibility for NHS functions is delegated or shared in this way, accountability would remain with the original function holder, whether that is NHS England or a clinical commissioning group. The original function holder would continue to be accountable via the existing mechanisms for oversight which ultimately go up to the Secretary of State. In respect of the arrangements which may be made for the exercise of the Secretary of State’s public health functions, each partner is liable for its own actions and, as with the rest of the health service—both public health and NHS elements—the Secretary of State remains accountable to Parliament.

We are seeking to introduce Amendment 45 to provide that the requirements for local authority consent do not apply to regulations revoking previous transfers of health service functions. Noble Lords will be aware also that Amendment 22, to which the noble Baroness, Lady Williams, has spoken, includes a similar provision whereby consent from a combined authority and local authorities is not needed where an order solely revokes a transfer of public authority health functions.

These amendments mean that, in the event that it becomes appropriate to restore NHS functions in a local area to NHS bodies, this can be achieved without the need for the consent of the combined authority and local authorities concerned. This reflects the fundamental principle for health devolution in Clause 19—that the Secretary of State for Health’s key responsibilities for the NHS will remain unchanged in any devolution arrangements. We would envisage using the powers to revoke only in circumstances where it was clear that duties and standards such as those referenced in Clause 19 were not being met, and that revoking the transfer was the best option to achieve the necessary improvement in performance. I beg to move.

Lord Warner (Non-Aff): My Lords, I shall speak in a friendly way towards the Minister on his amendments to the amendment that the House was good enough to pass at Third Reading. I cannot guarantee to be quite as friendly towards the Minister on all matters relating to the NHS and social care in future. I suspect that we shall have a good canter around that course on Thursday.

What it shows is that this House has an important scrutiny function to perform. I know that we gave the Minister a pretty hard time on this issue, but the Government rather deserved it. I think that it was very foolish for the Government to bring the Bill to this House with the devolution of NHS functions in it without clarity about how that would work in relation to existing NHS legislation, particularly the 2006 and 2012 Acts. I am glad that the Government have seen the error of their ways and I am extremely grateful to the Minister and his colleague, Alistair Burt, for the considerate way in which they discussed with me this set of amendments.

[LORD WARNER]

I am happy to commend them to the House because they meet the concerns that were expressed at an earlier stage, and I accept the points made by the Minister about the need, very occasionally, to revoke some of these changes. I do not accept the advice from the BMA in its guidance that there should be more safeguards. Given the nature of NHS legislation in this country, it is inevitable that where the Secretary of State sees real damage being done in a local area, he has to step in and make some changes. It is almost inevitable that on the odd occasion that will be necessary, so I am quite happy to support the change proposed by the Minister.

This shows the House in a good state in its ability to exercise its scrutiny functions—and, at the time of the Strathclyde report, it does us well to pat ourselves a little bit on the back that we have actually helped the Government improve their legislation.

Lord Beecham: My Lords, Warner Brothers established a remarkable reputation in the field of entertainment. It would be churlish if the noble Lord, who perhaps no longer counts himself as a brother to some of us on these Benches, was not to be congratulated on effecting a substantive change to the Bill that improves it. Members on all sides will want to join the Minister in paying tribute to the noble Lord's efforts.

As to the rather peculiar route taken by the Government in this matter, I think it became apparent to those of us who attended the meeting chaired by the noble Baroness at which the noble Lord, Lord Prior, was present, together with the silent presence of the Minister for devolution and the northern powerhouse, that at that point there really had been virtually no contact between the relevant departments, notably DCLG and the Department of Health. Clearly matters have improved since then and the House will be grateful to the two Ministers, who I suspect have got together much more effectively than had been possible at that stage. So far as the Opposition are concerned, we welcome the changes that have been made.

But questions still remain, some of which I referred to in my earlier speech in relation to the first group, about the position particularly in what are now county areas, where it is conceivable that certain districts may affiliate to combined authorities in an adjacent area. If, for example, there was a situation where there was a district council in Cheshire rather than a unitary, which joined the combined authority—it may or may not; I have no idea what is happening in the north-west, and no doubt my noble friend Lord Smith will enlighten us—and it affiliated for economic purposes with the combined authority and health was then taken over by that combined authority, what would happen to the social care part of the overall concept of health and social care? I do not think that that question has been resolved. It certainly has not been resolved in my mind, but that may be a defect on my part. It would be good to have some enlightenment about that situation.

4.15 pm

A move like that would not only have an impact on the authority that is moving into a combined authority but, potentially, have a significant impact on the residual

services available within the county that it will have left for these purposes. It may not have started out that way but, in time, what may have begun as an economic decision may be changed by the devolution of health in the way that has been described. It would be helpful if the Minister would indicate in particular the Government's view about the potential for difficulties involving the social care aspect of what needs to be a closer working partnership between these two services, which I think all parties recognise is highly desirable.

I also think that we all await with great interest the outcome in Greater Manchester. It is an attractive concept but it may have different implications for different areas and may not be quite as straightforward as we would like to think. My fear is that county districts joining, for some purposes but not for others, a combined authority may not really have been given any serious consideration. If it has not thus far—bearing in mind the Manchester experience as it evolves—it should certainly be the subject of further consideration and discussion, not only with health bodies but also with local government.

Lord Shipley: From these Benches, I also thank the noble Lord, Lord Warner, for the success of all his work and for the determined way in which he made his proposals. It proves the value of this House in the legislative process and demonstrates one of the advantages of our getting a Bill first because some of the scrutiny work was done at that stage.

In the context of annual reporting, to which I referred a little while ago, when there is an annual report about the success of NHS devolution, will it not simply reflect the views of the NHS and the combined authorities but the views of all stakeholders in health and social care? It is a very simple thing, in a sense, but it could be easily missed. It would be very helpful to have a response to that request on the record.

Lord Mackay of Clashfern (Con): My Lords, I am sorry I was not here at the beginning of this short debate. I had a meeting with a Minister on another matter. It was my privilege to consider with the noble Lord, Lord Warner, his original amendment. I supported it at that time, although not to the extent of going to the Division when he pressed it. From the answer that my noble friend had given, I believed that Ministers would take account of this. I sensed, possibly rightly, that it had not been very fully considered up to that point. I am glad that it is now being considered.

My concern is really the same as that of the noble Lord, Lord Warner. If it is not properly done, this kind of devolution could damage the nationality of the National Health Service, making it local with a postcode lottery according to where you happen to be. The amendment proposed by the Government is different in its way of approaching the matter and has dealt with that in a satisfactory way. I find it difficult to know the position about social care. I understand it is still a local authority responsibility and not for the National Health Service. The difference in funding is important in this connection also. I shall be glad to hear what the Minister has to say in answer to the noble Lord, Lord Beecham, on that point and on how the report will deal with the views of stakeholders other than just the central authorities themselves.

Lord Smith of Leigh (Lab): My Lords, I also support the amendments moved by the noble Lord, and I thank him for his explanation. When the noble Lords introduced the amendment in the name of the noble Lord, Lord Warner, they obviously had a suspicion about what was going on in Greater Manchester—understandably so. We heard the phrase “postcode lottery” from the previous noble and learned Lord. One reason why Greater Manchester wants to take control of health is that there is a current postcode lottery. The average outcomes for health in Greater Manchester, despite the efforts of Governments of all persuasions since 1948, have remained doggedly subject to that postcode lottery. We want to use the powers that we can use locally to start to do something about it.

With the permission of your Lordships’ House, I shall try to explain what we are doing in Greater Manchester and why we need not fear. It is only 11 months since we signed the original memorandum of understanding with NHS England to share health. The combined authority has not taken control of health; we share responsibility with our health partners. Our number one achievement is to raise the governance. We have 37 different organisations in Greater Manchester with some responsibility for this agenda. I have the dubious task of chairing the strategic partnership board, but colleagues across the piece are working collectively to achieve an outcome. In our collaboration with NHS England, the regulators are being as sympathetic as possible.

Already we have seen clinical benefits. We have made sure that every area of Greater Manchester has access to a hub seven days a week so that people can receive medical advice—which was not the case before—and that has continued to expand. We have started to commission collectively more work on public health, recognising that this will be a key to achieving significant change in population health. We set up an organisation called Dementia United, which is going to join all the partners together to look at dementia in terms of acute services, primary care services and social care. In December, we agreed a strategic plan to take us forward for the next few years in Greater Manchester. It complies with all national objectives and reflects the needs of Greater Manchester as a sub-region, but also the localities within Greater Manchester.

The focus, first, is on prevention. If we can get people not to need healthcare, that is the best way for people, for the health system and for care. We need to make sure that each locality addresses the issues that exist in those 10 areas of Greater Manchester. There is quite wide variation in provision, as one might expect, between GP services in one area and another. We just got those up to the same level and have made a great improvement. With acute care services, again there is huge variation between the outcomes of hospitals in Greater Manchester. We need to improve that, and we need to give better support both in the clinical and the back-office sense. To fund this, apart from the money we get from the Government, we think we can operate more efficiently and effectively by integrating lots of services; that will be important.

We are also grateful to the Government for allowing us an initial injection of funding from the transformation fund. Skilled negotiation on our part and obviously the generosity of the Government meant that we got £450 million from that fund. That will kick-start some major changes in Greater Manchester. The benefits will include better clinical outcomes; we have targets on those. We will make sure that children get to school at the age of five in better health and are more ready for school than they are at the moment. We are supporting the elderly so that they can live longer in their own homes.

This is not just about health, however. If we can start to improve the health of people in Greater Manchester, it will reduce some of the barriers to employment and help us to get more people into work. The next step, obviously, will be better engagement with the public and, crucially, with the staff across both NHS and social care. We are making sure that we have detailed implementation plans, so that this does not become a dusty strategic report—one that is very worthy but stays on the shelf—but is actually implemented. The strategy will make a difference, we believe, to the lives of people in Greater Manchester.

I should emphasise that, the more I have gone into this, the more I have come to realise that there is no boundary between health and social care. The figures vary, but they say that some 40% of the people who come to see the GP in his surgery are not really seeing him on medical matters but on social matters. For example, they may have housing problems or employment problems, so they are not sleeping at night and need support, and so they come to the doctor for tranquillisers. Some GPs are good at dealing with that; some simply give the tranquillisers. We need to make sure that we start to address the issues that people have and not assume all the time that it must be a medical issue.

My noble friend Lord Beecham asked what happens to the areas around Greater Manchester. Obviously, that is not determined, although we have already made a decision on acute provision in Greater Manchester that reflects Derbyshire, because, clearly, many in north-west Derbyshire—in Glossop and so on—look to Greater Manchester rather than elsewhere, and so we clearly need to reflect that. However, such areas would need their own locality plan for what they are doing in that area, working together with all the local health and social care partners. There is a need to reflect that some stuff is done at the regional level, some stuff is done at the sub-regional level and some stuff is done at the local level.

Social care is an important element of this. In some parts of Greater Manchester, under the locality plan the acute hospital will run the social care services. In other areas, such as Wigan, we will have a care organisation to ensure that everyone looks at how we can stop people getting ill—that is our main intention—rather than treating them once they are ill. That will vary slightly in different areas, but we will reflect those different localities.

We are making good progress and there is great collaboration going on. I thank the Government for the opportunity, and I think we will make a difference.

Lord Prior of Brampton: My Lords, first, I thank the noble Lord, Lord Warner, for his very friendly comments—long may they continue. As he and other noble Lords have mentioned, this is a good example of the scrutiny provided by this House in ensuring that we have, as my noble and learned friend Lord Mackay mentioned, a truly National Health Service, and that this legislation preserves, rather than undermines, the integrity of the National Health Service, with accountability, after devolution, still clearly with the Secretary of State for Health and to Parliament.

The noble Lord, Lord Beecham, asked what will happen in the event that things do not work out—I think that was the issue that he raised. The answer is, I think, that it will depend on the negotiations in each individual case. There need to be sensible arrangements from the outset as to what will happen in the event that things do not work out, which the Secretary of State will need to take a view on when agreeing to the deal at the beginning. In a sense, the end game needs to be considered early on in the proceedings. However, I may have missed the point that the noble Lord was making.

Lord Beecham: That may be partly my fault. My point was not that things might not work out in, for example, the Greater Manchester context; the problem that I raise is the situation that might arise where a district comes out of a county and into a combined authority for certain purposes and that combined authority decides that it wants to deal with health, but the social services provision, unless there is another change, remains with the county within which that district exists. That seems to me the area that has not yet been resolved; it is certainly not clear in my mind and, looking around, I think that there are others whose minds may also be confused by the situation. It is not an easy question for the Minister to answer, and if he is not able to do so, I will understand, but I think that it is a matter that needs to be addressed between the two departments and, if I may say so, in consultation with the local government world as well as the health world, before we get to the point where the situation becomes one where such a risk develops. It is not the case in Greater Manchester, but it may occur elsewhere if we have that movement by county districts into combined authorities for some purposes.

4.30 pm

Baroness Hollis of Heigham (Lab): My noble friend is spot on, but there is an additional complication because that very same district authority will be responsible for housing, including supported housing, which is to some extent under assault, as we may discuss on the second Bill we are considering today, the Welfare Reform Bill. We could have three players here: a combined authority with devolved NHS responsibility; a county council that may or may not be willing in principle to send over some of its social services, such as adult social care; and the district council that remains responsible for the bricks and mortar side, as opposed to the support services side, for, say, the frail elderly, hostels, refuges and the like. There is a real problem about ensuring the consensual structure that we all want to see. We welcome the Government's responsiveness to the untidiness of geography and of functions, but there are a lot of issues still to be resolved on this score.

Lord Beecham: I am sorry to intervene again, but from what my noble friend just said it occurs to me that it is not just social care; one has to think about education and children's services, where there is also a potential dimension. So far, nobody has mentioned that. That is another department that ought to be involved. Of course, we cannot resolve this today, but I urge that the kind of discussions I have mentioned should take place, and I now add the education department to that.

Lord Prior of Brampton: My Lords, life is untidy, unfortunately. It is never clear and you cannot foresee all eventualities. The only response I can give noble Lords today is that the Secretary of State will deal with each matter on a case-by-case basis. I do not think that anyone can lay down a blueprint for dealing with that now, but I am happy to discuss it with the noble Lord and the noble Baroness if they want to do so. Maybe this is not the right place to go into all of that. I hope that that will be acceptable to them.

The noble Lord, Lord Shipley, raised the report on the success of devolution. I think I can speak for the Secretary of State for Health in saying that he would want to involve all relevant stakeholders in that report, not least patients, frankly, for obvious reasons. I am happy to put that on the record.

I conclude by thanking the noble Lord, Lord Smith, for updating us all on what is happening in Manchester. We on both sides of the House wish Greater Manchester well. It is a trailblazer and a very important development. We hope that we will see more devolution across England while still retaining the central accountability and integrity of the National Health Service.

Motion on Amendments 45 to 51 agreed.

Motion on Amendment 52

Moved by Baroness Williams of Trafford

That this House do agree with the Commons in their Amendment 52.

52: Clause 20, page 18, line 41, leave out Clause 20

Baroness Williams of Trafford: My Lords, in moving the Motion I shall speak against the amendment to the Motion, which will be moved by the noble Lord, Lord Shipley.

Commons Amendment 52 removes from the Bill Clause 20, which would amend Section 2 of the Representation of the People Act 1983 by lowering the minimum voting age from 18 to 16 for the local government franchise in England and Wales. Accepting Commons Amendment 52 would maintain the status quo on that local government franchise. Through his amendment the noble Lord, Lord Shipley, seeks to change that franchise so that 16 and 17 year-olds could vote in all elections that are based on this local government franchise, including local government elections in England and Wales, police and crime commissioner elections, those for the Greater London Authority and mayor, and elections to the National Assembly for Wales. Sixteen and 17 year-olds would be eligible to vote in local neighbourhood planning referendums, council tax referendums and referendums on local authority governance arrangements.

We have discussed the voting age a number of times, and I do not wish to detain this House any longer than may be necessary on this matter. On each occasion we have made the Government's position clear—that is, we do not believe that it is appropriate to lower the voting age to 16; and even if it was, this Bill would not be the place to make such a change.

Moreover, the other place has on two occasions, and by significant majorities, voted in support of its Amendment 52 maintaining the status quo on the local government franchise. The views of the other place are clear, and I believe that on such significant constitutional matters this unelected House should accept the very clear decision of the other place, given the democratic legitimacy that it has.

As to the substantive arguments, which we have made clear in earlier debates on this issue, it is at 18 rather than 16 that society generally views a young person as becoming an adult. Furthermore, most democracies consider 18 the right age to enfranchise young people. Only Austria in the European Union has lowered the voting age to 16 for national elections. While accepting that it is entirely right that the issue of the franchise in Scotland is one for the Scottish Parliament, the Scottish experience and position do not provide an example that this Parliament must necessarily follow.

Lord Purvis of Tweed (LD): My Lords, I cannot see the Minister's noble friend Lady Goldie, who led for her party in the Scottish Parliament on this issue and gave enthusiastic backing for lowering the voting age for local government elections in Scotland. Given what the Minister has just said, will she clarify the Conservative Party's position on the capacity of 16 and 17 year-olds to vote in local government elections? Her party seems to think that it is peculiarly difficult for English 16 and 17 year-olds to vote in council elections but that Scottish 16 and 17 year-olds have that capacity. Therefore, if local elections fell on the same day in Berwick and Berwickshire, the English 16 and 17 year-olds would, in the opinion of the Conservative Party, not have the relevant capacity whereas those in Berwickshire would. Will the Minister explain why that is the case?

Baroness Williams of Trafford: My Lords, I think I said that the franchise in Scotland was a matter for the Scottish Government, that this unelected House was not the place to discuss the franchise, that this Bill was not the place to discuss the franchise and that the other place had given its very decisive view on the franchise. Those are the main points I am making, not that children in Berwick are less able than children in Glasgow to have this franchise. I am discussing the appropriateness of introducing this measure in this place on this Bill at this time, and urging noble Lords not to support it. I hope that the noble Lord, Lord Shipley, will withdraw his amendment. It may be appropriate to have a full discussion on the franchise in the round at another time but now is not the time to do it. I hope that the noble Lord will withdraw his amendment.

Amendment to the Motion on Amendment 52

Moved by Lord Shipley

Leave out "agree" and insert "disagree".

Lord Shipley: My Lords, back in July, on Report, this House voted by 221 votes to 154—a majority of 67—that 16 and 17 year-olds should have the right to vote in local elections. When the Bill went to the House of Commons, this decision was reversed and, as a consequence, the matter has returned to this House to be considered once again.

I find it strange that so much emphasis is put on citizenship in young people's education but that the natural extension of this to enable them to vote is a step this Government seem reluctant to take. Ten years ago, the Power commission, funded by the Joseph Rowntree Trust, concluded in its report on how to increase political participation that the voting age should be lowered to 16. It was one of its key recommendations, but it has never been acted on.

We cannot complain that younger generations are not engaging with politics when they cannot participate fully. Young people surely have a right to a say in how the communities they live in are run. They use public services locally; they are very politically conscious and we ought to build on that. Crucially, we need to get young people into the way of voting and starting at 18 can be too late, as turnout levels of people under 25 show. Our democracy depends on high levels of participation, and voting at 16 would instil in more young people the habit of voting. We now have the precedent of the Scottish referendum, 16 months ago, when 16 and 17 year-olds were entitled to vote. Although Scotland is outside the scope of the Bill, this precedent has served, in practice, as a pilot and has changed mindsets because it was a clear success.

Noble Lords are all aware that votes at 16 has been the subject of ongoing debate in this House since the general election. In recent months, we have had significant debates on the right to vote at 16 in the EU referendum Bill. We asked the Government to rethink their position, but this was reversed in the other place and, by a narrow margin, not pressed further in this House. In the context of that decision on the EU referendum Bill, I have carefully considered whether there is a justification for asking the House of Commons to think again about lowering the voting age in the context of this Bill. For this is a different Bill: it relates to local government, not to a referendum, and I have concluded that there is a case and a justification for doing so. The issue is important: it relates to the nature of our democracy and young people's engagement with the democratic process. In the House of Commons, on 17 November, the Minister said that:

"It is undeniable that there is a debate to be had on the issue".—[*Official Report*, Commons, 17/11/15; col. 556.]

I agree with him, and I think this House would do so, too. However, it is not clear to me when the Government plan to have that debate. I will listen very carefully to anything further the Minister has to say in response to this debate but, for the moment, I beg to move.

The Earl of Listowel (CB): My Lords, adolescence is a difficult time for all young people, whether they grow up in loving families or not. I remain concerned that the amendment would put an additional burden on adolescents. I am also worried that it would put a target on the back of young people for unscrupulous politicians, which might be unhelpful. Finally, I agree with Barry Sheerman, a very well-respected Labour MP

[THE EARL OF LISTOWEL]

who was, for many years, head of the Education Select Committee in the other place. In recent discussions on the franchise in that place, he talked of his concern about the shrinking of childhood.

Many noble Lords support this proposal: I ask them to consult on it with experts in child development. So far, only the Government have referred to the evidence about adolescence. They have referred to neurobiological research into adolescence terminating in the early 20s but, so far, I am not aware of that evidence being referred to by those proposing the amendment.

Lord Storey (LD): The noble Earl mentioned child development experts. Could he name the experts who are saying that it would put a target on the back of 16 year-olds if they were allowed to vote?

The Earl of Listowel: Certainly. In her final paper on adolescence as a development disturbance, Anna Freud, a pioneer of child development, highlighted the challenges which children face as they go through adolescence. In particular, she highlights the burdens which society puts on them in terms of exams and decisions about careers, which may affect their whole life course, at a time when they are trying to move from childhood into adulthood. I refer the noble Lord to that paper. There are child development experts—I know of at least one—who are very much in favour of this and others who are very much opposed to it. I ask those proposing this amendment to find some consensus among these individuals.

There would be one further benefit. If those proposing this would consult child development experts on this matter, when people such as myself and others wish to raise the age of criminal responsibility it would make the case for us to say, “We have talked to the child development experts and they all say that 10 is far too low for the age of criminal responsibility. We should raise it”. Noble Lords can set a good example in this matter so I hope that the noble Lord, Lord Shipley, might consider withdrawing his amendment.

4.45 pm

Lord Cormack (Con): My Lords, briefly, I support what the noble Earl, Lord Listowel, has said. He made some extremely telling points, which should certainly be taken into account, but I want to confine my own brief remarks to another point. The elected House has spoken. It has spoken not just once but twice. It has not whispered or murmured but spoken very clearly, with an emphatic majority. At this late stage in the Bill, it is not for us to go into what has so often been called piecemeal constitutional change. It is for us to accept the limitations on our role and power: to concede, above all things, on the franchise to the elected House; to accept that we perfectly properly used the right that this House has to ask Members in the other place to think again. They thought, and they spoke emphatically. We now need to listen.

Lord Tyler: My Lords, I want to speak briefly—

Lord Kennedy of Southwark: My Lords—

Lord Tyler: I think that my friend here, the noble Lord, Lord Kennedy, would like to follow me. He might like to react to what I have to say.

This afternoon the Minister, and indeed others, seem to be again saying, “Yes, one day this will happen but not now”. That is a position which I understand—it is a perfectly reasonable position—but it cannot be repeated and repeated without the Government coming forward and saying when and how. On 18 November, I thought that the noble Lord, Lord Faulks, put it very succinctly when he said:

“There may come a time for change, when we lower the age to 16. There may be a debate to be had. This is not the moment for that debate”.—[*Official Report*, 18/11/15; col. 179.]

When is it going to be the time for that debate? This is the doctrine of unripe time, which I think I am right in saying that Sir Humphrey was always quoting to Jim Hacker in “Yes Minister”. Whenever they wanted to avoid taking a decision they would say, “We’ll get to it one day. Yes, of course it’ll be important”. But it is not going to be sufficient simply to put this off for ever.

The Prime Minister himself has said, as we understand it, to the leader of the Conservatives in the Holyrood Parliament that, yes, there will be an opportunity for the full debate which I think the noble Earl, Lord Listowel, and I will both want to contribute to. When are we going to have that debate? We cannot go on for ever leaving this on the side, as if it somehow does not matter that one part of the United Kingdom adjoining another has a completely different franchise, as my noble friend Lord Purvis said. If this is the United Kingdom, the franchise should be consistent across the United Kingdom.

There is also an important issue here about the way in which we discuss these issues in this House. The noble Lord, Lord Cormack, seems to think that it is inappropriate for this House to have any views whatever about elections. I dispute that. During my whole period in this House, we have been able to improve the law in relation to elections in a more dispassionate way than when I was a Member of the other place. It has a special interest in the electoral arrangements, in the Representation of the People Acts and so on. This House has a proper responsibility, a disinterest, which is extremely relevant to important questions about the franchise and the way in which our democracy works. If we give that up it will be an important loss of responsibility and role for this House, and I hope that we will not go down that track. In response, I trust that the Minister will be able to tell us, as the Prime Minister has hinted to his colleagues in the Holyrood Parliament, that there will be an opportunity for the wider debate that Ministers keep telling us is timely and should be happening. If she cannot tell us that, then we are right to make progress in this Bill and move in this direction.

Lord Kennedy of Southwark: My Lords, while I have every sympathy with the amendment proposed by the noble Lord, Lord Shipley, and with the comments of the noble Lord, Lord Tyler, I should say right at the outset that if the amendment is pressed to a vote, noble Lords on these Benches will abstain.

My party fought the general election last year on a commitment to bring forward legislation to enable 16 and 17 year-olds to vote. We have, on numerous

occasions, had debates, asked questions, moved Motions and won votes to advance the cause, but it has fallen on deaf ears on the government Benches. They have shown not the slightest interest in considering this change and I have come to the conclusion that it will probably take a Government of a different political persuasion to bring it about.

Not even the enthusiastic support of Ruth Davidson MSP, the leader of the Tory party in Scotland, or of the noble Baroness, Lady Goldie, the former leader, has made any difference at all to the government Benches. We will continue to press the case at the appropriate time—the worst thing that the Government have done of course is to deny 16 and 17 year-olds a vote in the referendum on the European Union. The Government and the House of Commons have rejected this proposal repeatedly.

We are a revising Chamber. The elected Commons has made a decision, as the noble Lord, Lord Cormack, said, and I do not intend to challenge it further on this occasion. In taking this decision, I am also mindful of the advice from the Electoral Commission about making decisions in a timely manner and the extra work that would be involved in the short space of time before the elections.

Lord Purvis of Tweed: Before the noble Lord sits on his hands, is his position on this for the Official Opposition purely tactical? Is it their principled position that 16 and 17 year-olds should have the opportunity to elect local government representatives whenever this Parliament—both Houses, including this House—has an opportunity to give it to them, or is it purely tactical given the weakness of the Official Opposition?

Lord Kennedy of Southwark: We have repeatedly supported the idea of votes for 16 and 17 year-olds. I think noble Lords will find that the position of the noble Lord today is a tactical one.

Lord Beecham: When it comes to sitting on their hands, few better exponents of that philosophy could be found than those on the Liberal Democrat Benches. They sat on their hands and colluded with the enormous damage inflicted on local government and elsewhere for five years. They are not in any position to lecture us about anything around consistency. Furthermore, it is quite clear that the Government's unfortunate position on this has been confirmed on three or four occasions in votes at the other end. We are not in a position to change that. Noble Lords on the Liberal Democrat Benches know that it will not change. This is gesture politics of a typical kind and we ought to have nothing whatever to do with it. When we get a change of Government, we will see a change in the voting age, not only for local authority elections but for parliamentary elections, European elections and any future referendums.

Baroness Williams of Trafford: My Lords, I think I had better quickly break up the fight. When is the right time to have the debate on the franchise? It is most certainly not in a devolution Bill, in the House of Lords, when the House of Commons has voted decisively, on two occasions, to overturn this amendment. As for any arguments in addition to those I have already made, I have nothing much to add other than to back up the points that the noble Earl, Lord Listowel, made at the

previous stage of the Bill. The Electoral Commission has also voiced concern about this amendment. Other than that, I have nothing further to add. It is not the time, it is not the Bill and we are not the House to be deciding this.

Lord Shipley: My Lords, I am very grateful for the contributions that we have had from a number of Members of the House. They have at least helped to inform our thinking. I listened very carefully to the Minister's reply, which has not added much at all. I conclude two things. First, there was no indication in that reply that the confirmation by the Minister in the other place, James Wharton, in November, that it was undeniable that there is a debate to be had on the issue, will be acted on by the Government. I think that it should be.

Secondly, this House supported the lowering of the voting age when it last considered the matter as part of this Bill. I think it is for the House to decide whether it wishes to press the matter further. I hope that it will. It is very important that we should engage young people with the democratic process at an earlier age than 18, and I therefore beg leave to test the opinion of the House.

4.55 pm

Division on Amendment 52A (to Amendment 52)

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5.10 pm

Motion on Amendment 53

Moved by Lord Ahmad of Wimbledon

That this House do agree with the Commons in their Amendment 53.

53: After Clause 21, insert the following new Clause—

“Sub-national transport bodies

After Part 5 of the Local Transport Act 2008 insert—

“PART 5A**SUB-NATIONAL TRANSPORT BODIES***Establishment and constitution of STBs***102E Power to establish STBs**

(1) The Secretary of State may by regulations establish a sub-national transport body for any area in England outside Greater London.

(2) In this Part—

(a) “STB” means a sub-national transport body established under this section, and

(b) references to the area of an STB are to the area in England for which the STB is established.

(3) Regulations under this section must specify—

(a) the name by which the STB is to be known, and

(b) the area of the STB.

(4) The area of an STB must consist of the whole of the area of two or more relevant authorities (whether or not of the same kind).

(5) Each of the following is a “relevant authority” for the purposes of this Part—

(a) a combined authority;

(b) an ITA;

(c) a county council that comes within subsection (6);

(d) a unitary district council that comes within that subsection;

(e) the Council of the Isles of Scilly.

(6) A council comes within this subsection if no part of its area forms part of—

(a) the area of a combined authority, or

(b) an integrated transport area.

(7) An STB is to be established as a body corporate.

102F Requirements in connection with regulations under section 102E

(1) Regulations under section 102E may be made establishing an STB for an area only if the Secretary of State considers that—

(a) its establishment would facilitate the development and implementation of transport strategies for the area, and

(b) the objective of economic growth in the area would be furthered by the development and implementation of such strategies.

(2) The reference in subsection (1)(a) to “transport strategies”, in relation to the area of an STB, is a reference to strategies for improving—

(a) the exercise of transport functions in the area (whether or not exercisable by the STB), and

(b) the effectiveness and efficiency of transport to, from or within the area.

(3) Regulations under section 102E establishing an STB for an area may be made only if—

(a) the constituent authorities have together made a proposal to the Secretary of State for there to be an STB for the area, and

(b) those authorities consent to the making of the regulations.

(4) For the purposes of this Part, the constituent authorities of an STB are every relevant authority whose area is within the area, or proposed area, of the STB.

(5) Before making a proposal under this section the constituent authorities must consult—

(a) each appropriate authority (if it is not a constituent authority), and

(b) any other persons whom the constituent authorities consider it is appropriate to consult.

(6) The Secretary of State may require the constituent authorities to consult any other persons (not already consulted under subsection

(5)(b)) whom the Secretary of State considers should be consulted in connection with a proposal under this section.

(7) For the purposes of subsection (5), each of the following is an “appropriate authority” if any part of the authority’s area adjoins the area of the proposed STB—

(a) a combined authority;

(b) an ITA;

(c) Transport for London;

(d) a county council;

(e) a unitary district council;

(f) a London borough council.

102G Constitution of STBs

(1) The Secretary of State may by regulations make provision about the constitutional arrangements in relation to an STB.

(2) “Constitutional arrangements”, in relation to an STB, include arrangements in respect of—

(a) the membership of the STB (including the number and appointment of members of the STB),

(b) the voting powers of members of the STB (including provision for different weight to be given to the vote of different descriptions of member),

(c) the executive arrangements of the STB, and

(d) the functions of any executive body of the STB.

(3) Regulations made by virtue of subsection (2)(a) which include provision about the number and appointment of members of the STB must provide—

(a) for the members of the STB to be appointed by the STB’s constituent authorities, and

(b) for those members to be appointed from among the elected members of the constituent authorities.

(4) Regulations made by virtue of subsection (2)(a) may provide for persons, who are not elected members of the constituent authorities, to be appointed as co-opted members of an STB; but such regulations must provide (by virtue of subsection (2)(b)) for those co-opted members to be non-voting members of the STB.

(5) The voting members of an STB may resolve that provision made in accordance with subsection (4) is not to apply (generally or in relation to particular matters) in the case of the STB.

(6) In subsection (2)(c) “executive arrangements” means—

(a) the appointment of an executive;

(b) the functions of the STB which are the responsibility of an executive;

(c) the functions of the STB which are the responsibility of an executive and which may be discharged by a committee of the STB, by an officer of the STB or by a body other than the STB;

(d) arrangements relating to the review and scrutiny of the discharge of functions;

(e) access to information on the proceedings of an executive of the STB;

(f) the keeping of a record of any arrangements relating to the STB and falling within any of paragraphs (a) to (e).

(7) The provision which may be made by regulations by virtue of subsection (2)(d) includes—

(a) provision setting up or dissolving an executive body of an STB, or merging two or more executive bodies of an STB;

(b) provision conferring functions on, or removing functions from, an executive body of an STB;

(c) provision transferring functions of an STB to an executive body of the STB, and transferring functions of an executive body of an STB to the STB.

(8) Regulations under this section may authorise an STB to delegate any of its functions to one or more of its constituent authorities (and any such delegation may be made subject to conditions or limitations).

(9) Regulations under this section may not provide for the budget of an STB to be agreed otherwise than by the STB.

(10) For the purposes of subsections (3) and (4), the “elected members” of a constituent authority—

(a) in the case of a combined authority, are the mayor for the area of the combined authority (if there is one) and those members of the authority who are appointed from among the elected members of the authority's constituent councils (see section 85(1)(b) above as applied by section 104(2) of the Local Democracy, Economic Development and Construction Act 2009);

(b) in the case of an ITA, are those members of the ITA who are appointed from among the elected members of the ITA's constituent councils (see section 85(1)(b) above);

(c) in the case of a county council, a unitary district council or the Council of the Isles of Scilly, are the elected members of the council.

Functions

102H General functions

(1) The Secretary of State may by regulations provide for an STB to have any of the following functions in relation to its area—

(a) to prepare a transport strategy for the area (see section 102I);

(b) to provide advice to the Secretary of State about the exercise of transport functions in relation to the area (whether exercisable by the Secretary of State or others);

(c) to co-ordinate the carrying out of transport functions in relation to the area that are exercisable by different constituent authorities, with a view to improving the effectiveness and efficiency in the carrying out of those functions;

(d) if the STB considers that a transport function in relation to the area would more effectively and efficiently be carried out by the STB, to make proposals to the Secretary of State for the transfer of that function to the STB;

(e) to make other proposals to the Secretary of State about the role and functions of the STB.

(2) The Secretary of State may by regulations provide for an STB to have other functions of a description set out in the regulations.

(3) Regulations under subsection (2) may be made only for functions to be exercisable in relation to the area of the STB that—

(a) relate to transport,

(b) the Secretary of State considers can appropriately be exercised by the STB, and

(c) are not already exercisable in relation to that area by a local authority or a public authority (see instead sections 102J and 102K respectively for a power to transfer such functions to an STB).

(4) The Secretary of State may by regulations make further provision about how an STB is to carry out functions that it has under or by virtue of this Part.

(5) Regulations under this section in relation to an existing STB may be made only with the consent of the STB.

(6) Nothing in this section limits the power of the Secretary of State to confer other functions on an STB under this Part.

102I Transport strategy of an STB

(1) The transport strategy of an STB is a document containing the STB's proposals for the promotion and encouragement of sustainable, safe, integrated, efficient and economic transport facilities and services to, from and within the area of the STB.

(2) The transport facilities and services mentioned in subsection (1) are—

(a) those required to meet the needs of persons (including pedestrians) living or working in, or visiting, the area of the STB, and

(b) those required for the transportation of freight.

(3) An STB may include in its transport strategy any other proposals it considers appropriate that relate to transport to, from or within its area.

(4) An STB must publish its transport strategy.

(5) If an STB revises its transport strategy, the STB must publish the strategy as revised.

(6) In preparing or revising its transport strategy an STB must carry out a public consultation.

(7) In carrying out a public consultation under subsection (6), the STB must ensure that such of the following persons as the STB considers appropriate (taking into account the proposals to be contained in the strategy) have a reasonable opportunity to respond to the consultation—

(a) the Secretary of State;

(b) a combined authority;

(c) another STB;

(d) an ITA;

(e) a Passenger Transport Executive;

(f) Transport for London;

(g) a person to whom a licence is granted under section 8 of the Railways Act 1993 (licences authorising persons to be operator of railway assets);

(h) Highways England Company Limited;

(i) a local highway authority (within the meaning of the Highways Act 1980);

(j) a county council in England;

(k) a unitary district council;

(l) a London borough council.

(8) In preparing or revising its transport strategy an STB must (among other matters) have regard to—

(a) the promotion of economic growth in its area,

(b) the social and environmental impacts in connection with the implementation of the proposals contained in the strategy,

(c) any current national policy relating to transport that has been published by or on behalf of Her Majesty's Government, and

(d) the results of the public consultation mentioned in subsection (6).

(9) The Secretary of State must have regard to proposals contained in the transport strategy of an STB that appear to the Secretary of State to further the objective of economic growth in the area of the STB in determining—

(a) national policies relating to transport (so far as relevant in relation to such proposals), and

(b) how such policies are to be implemented in relation to the area of the STB.

(10) The constituent authorities of an STB must exercise transport functions with a view to securing the implementation of the proposals contained in the STB's transport strategy.

(11) In this Part "transport strategy", in relation to an STB, means the transport strategy prepared or revised by an STB under this section by virtue of the function in section 102H(1)(a).

102J Exercise of local transport functions

(1) The Secretary of State may by regulations provide for functions that are exercisable by a local authority in an area that is, or is to become, the area of an STB to be exercisable by the STB.

(2) Regulations under this section may be made—

(a) only in relation to functions that relate to transport, and

(b) only if the Secretary of State considers that the function can appropriately be exercised by the STB.

(3) For the purposes of subsection (2)(a), regulations under this section may be made in respect of a function that relates both to transport and to other matters only so far as the function is exercisable in relation to transport.

(4) Regulations under this section may make provision for a function to be exercisable by the STB either generally or subject to such conditions or limitations as may be specified in the regulations.

(5) Regulations under this section may make provision—

(a) for a function to be exercisable by the STB instead of by the local authority, or

(b) for a function to be exercisable by the STB concurrently with the local authority.

(6) Regulations under this section may be made only with the consent of—

(a) the local authority concerned, and

(b) in the case of regulations made in relation to an existing STB, the STB.

(7) In this section “local authority” means—

(a) a combined authority;

(b) an ITA;

(c) a Passenger Transport Executive;

(d) a county council in England;

(e) a unitary district council;

(f) the Council of the Isles of Scilly.

102K Other public authority functions

(1) The Secretary of State may by regulations provide for functions that are exercisable by a public authority in relation to an area that is, or is to become, the area of an STB to be exercisable by the STB.

(2) Regulations under this section may be made—

(a) only in relation to functions that relate to transport, and

(b) only if the Secretary of State considers that the function can appropriately be exercised by the STB.

(3) For the purposes of subsection (2)(a), regulations under this section may be made in respect of a function that relates both to transport and to other matters only so far as the function is exercisable in relation to transport.

(4) Regulations under this section may make provision for a function to be exercisable by the STB either generally or subject to such conditions or limitations as may be specified in the regulations.

(5) Regulations under this section may make provision—

(a) for a function to be exercisable by the STB instead of by the public authority, or

(b) for a function to be exercisable by the STB jointly with the public authority.

(6) Regulations under this section in relation to an existing STB may be made only with the consent of the STB.

(7) In this section—

“function” does not include a power to make regulations or other instruments of a legislative character;

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;

“public authority”—

(a) includes a Minister of the Crown or a government department;

(b) does not include a local authority as defined by section 102J.

102L Funding

(1) The Secretary of State may pay grants to STBs to cover expenditure incurred in the carrying out of their functions.

(2) Grants may be paid under this section subject to any conditions the Secretary of State thinks appropriate (including conditions as to repayment).

(3) The Secretary of State may by regulations make provision—

(a) for the constituent authorities of an STB to contribute to its costs, and

(b) about the basis on which the amount payable by each constituent authority is to be determined.

General powers etc

102M General powers

(1) An STB may do—

(a) anything it considers appropriate for the purposes of the carrying out of any of its functions (its “functional purposes”),

(b) anything it considers appropriate for purposes incidental (whether directly or indirectly) to its functional purposes,

(c) anything it considers to be connected with—

(i) any of its functions, or

(ii) anything it may do under paragraph (a) or (b), and

(d) for a commercial purpose, anything which it may do under any of paragraphs (a) to (c) otherwise than for a commercial purpose.

(2) Where subsection (1) confers power on an STB to do something, it confers power (subject to section 102N) to do it anywhere in the United Kingdom or elsewhere.

(3) Power conferred on an STB by subsection (1) is in addition to, and is not limited by, the other powers of the STB.

(4) Where an STB has an executive body established by virtue of section 102G, the STB may delegate to that body its function of taking action under subsection (1) (but not the function of determining what action to take).

102N Boundaries of power under section 102M

(1) Section 102M(1) does not enable an STB to do anything which it is unable to do by virtue of a post-commencement limitation which is expressed to apply—

(a) to its power under section 102M(1),

(b) to all of its powers, or

(c) to all of its powers but with exceptions that do not include its power under section 102M(1).

(2) Section 102M(1) does not authorise an STB to borrow money.

(3) Section 102M(1)(a) to (c) do not authorise an STB to charge a person for anything it does otherwise than for a commercial purpose (but see section 93 of the Local Government Act 2003 (power of STBs and other best value authorities to charge for discretionary services)).

(4) Section 102M(1)(d) does not authorise an STB to do things for a commercial purpose in relation to a person if a statutory provision requires the STB to do those things in relation to the person.

(5) Where under section 102M(1)(d) an STB does things for a commercial purpose, it must do them through—

(a) a company within the meaning given by section 1(1) of the Companies Act 2006, or

(b) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014.

(6) In this section—

“post-commencement limitation” means a prohibition, restriction or other limitation imposed by a statutory provision that—

(a) is contained in an Act passed after the end of the Session in which the Cities and Local Government Devolution Act 2015 is passed, or

(b) is contained in an instrument made under an Act and comes into force on or after the commencement of section (Sub-national transport bodies) of that Act;

“statutory provision” means a provision of an Act or of an instrument made under an Act.

102O Power to make provision supplemental to section 102M

(1) The Secretary of State may by regulations make provision preventing an STB from doing under section 102M(1) anything which is specified, or is of a description specified, in the regulations.

(2) The Secretary of State may by regulations provide for the exercise by STBs of the power conferred by section 102M(1) to be subject to conditions, whether generally or in relation to doing anything specified, or of a description specified, in the regulations.

(3) Before making regulations under subsection (1) or (2) the Secretary of State must consult—

(a) such representatives of STBs,

(b) such representatives of local government, and

(c) such other persons (if any), as the Secretary of State considers appropriate.

(4) Subsection (3) does not apply to regulations under subsection (1) or

(2) which are made only for the purpose of amending earlier such regulations—

(a) so as to extend the earlier regulations, or any provision of the earlier regulations, to a particular STB or to STBs of a particular description, or

(b) so that the earlier regulations, or any provision of the earlier regulations, cease to apply to a particular STB or to STBs of a particular description.

102P Power of direction

(1) The Secretary of State may by regulations confer on an STB a power to give directions to a constituent authority about the exercise of transport functions by the authority in the area of the STB.

(2) The power to give a direction by virtue of subsection (1) about the exercise of a function extends only so far as the exercise of the function is relevant to the implementation of the STB's transport strategy.

(3) Regulations under this section conferring a power to direct may include provision—

(a) for the power to be given generally or subject to conditions or limitations;

(b) for the power to apply to all transport functions or only to those functions specified or described in the regulations;

(c) about the manner in which directions are to be given;

(d) about the consequences arising if there is a contravention of a direction.

(4) Provision under subsection (3)(d) may include provision enabling the STB—

(a) to take any steps it considers appropriate to reverse or modify the effect of a constituent authority exercising a transport function in contravention of the direction, and

(b) to recover any reasonable expenses incurred in taking those steps as a civil debt from the constituent authority.

Boundary and name changes

102Q Change to boundaries of an STB's area

(1) The Secretary of State may by regulations change the boundaries of the area of an STB by—

(a) adding the area of a relevant authority to an existing area of an STB, or

(b) removing the area of a constituent authority from an existing area of an STB.

(2) Regulations under this section may be made—

(a) only if the constituent authorities have together made a proposal to the Secretary of State for the boundaries to be changed in the manner that would be provided for in the regulations;

(b) in the case of regulations under subsection (1)(a), only if the relevant authority whose area would be added to the area of the STB joins in the making of the proposal;

(c) in the case of regulations under subsection (1)(b), only if the resulting area of the STB meets the condition in section 102E(4).

(3) Regulations under this section changing the boundaries of the area of an STB may be made only if the Secretary of State considers that paragraphs (a) and (b) of section 102F(1) would apply in relation to the area as varied by the regulations.

(4) Regulations under this section may be made only with the consent of—

(a) the STB, and

(b) in the case of regulations under subsection (1)(a), the relevant authority whose area would be added to the area of the STB.

102R Change of name

(1) An STB may change its name by a resolution in accordance with this section.

(2) The resolution must be considered at a meeting of the STB that is specially convened for the purpose.

(3) Particulars of the resolution must be included in the notice of the meeting.

(4) The resolution must be passed at the meeting by not less than two-thirds of the members of the STB who vote on it.

(5) An STB which changes its name under this section must—

(a) send notice of the change to the Secretary of State, and

(b) publish the notice in such manner as the Secretary of State may direct.

(6) A change of name under this section does not affect the rights or obligations of the STB or any other person, or render defective any legal proceedings.

(7) Any legal proceedings may be commenced or continued as if there had been no change of name.

Supplementary

102S Incidental etc provision

(1) The Secretary of State may by regulations make incidental, consequential, transitional or supplementary provision for the purposes of, or in consequence of, regulations under this Part or for giving full effect to such regulations.

(2) Regulations under this Part may make different provision for different STBs or otherwise for different purposes.

(3) The provision which may be included by virtue of this section in regulations includes provision for the transfer under the regulations of property, rights and liabilities.

(4) The provision which may be included by virtue of subsection (3) in regulations includes provision—

(a) for the creation or imposition by the Secretary of State of new rights or liabilities in respect of anything transferred under the regulations;

(b) for the management or custody of transferred property;

(c) for bodies to make agreements with respect to any property, income, rights, liabilities and expenses of, and any financial relations between, the parties to the agreement.

(5) The provision which may be included by virtue of this section in regulations includes provision amending, modifying, repealing or revoking any enactment, whenever passed or made.

(6) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).

102T Procedure for regulations under this Part

(1) Regulations under this Part must be made by statutory instrument.

(2) A statutory instrument containing regulations under this Part may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

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

(4) Subsections (2) and (3) do not apply to a statutory instrument that contains regulations only of the following kinds—

(a) regulations under section 102J that make provision under subsection (4) of that section for a function to be exercisable by an STB for a limited period of time;

(b) regulations under section 102J that make provision under subsection (5)(b) of that section;

(c) regulations under section 102K that make provision under subsection (4) of that section for a function to be exercisable by an STB for a limited period of time;

(d) regulations under section 102K that make provision under subsection (5)(b) of that section;

(e) regulations under section 102O(1) that make provision for the purpose mentioned in section 102O(4)(b);

(f) regulations under section 102O(2) that make provision for that purpose or for imposing conditions on the doing of things for a commercial purpose.

(5) A statutory instrument to which subsections (2) and (3) do not apply is subject to annulment by resolution of either House of Parliament.

(6) If a draft of regulations under this Part would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.

102U Interpretation

In this Part—

“combined authority” means a body established as a combined authority under section 103 of the Local Democracy, Economic Development and Construction Act 2009;

“constituent authority”, in relation to an STB, has the meaning given by section 102F(4);

“ITA” means an Integrated Transport Authority for an integrated transport area in England;

“Passenger Transport Executive” means a body which is such an Executive for the purposes of Part 2 of the Transport Act 1968;

“relevant authority” has the meaning given by section 102E(5);

“STB” has the meaning given by section 102E(2);

“transport functions” means any statutory functions relating to transport;

“transport strategy” has the meaning given by section 102I(11);

“unitary district council” means a district council whose area is not part of the area of a county council.””

The Parliamentary Under-Secretary of State, Department for Transport and Home Office (Lord Ahmad of Wimbledon) (Con): My Lords, in speaking to Commons Amendment 53 I shall also speak to Amendments 77, 85, 86 and 87. In the summer 2015 Budget, my right honourable friend the Chancellor of the Exchequer reaffirmed the Government’s commitment to the northern powerhouse, a fundamental part of our plan to deliver a healthy and balanced economy for working people across this United Kingdom. The provisions on sub-national transport bodies—STBs—we are debating today were introduced in the last Session and passed through the other place without amendment. I thank all Members and in particular my honourable friend Andrew Jones for that.

These provisions on STBs are a continuation of the revolution going on in the way we govern England. The Government are committed to devolve powers and budgets to boost local growth, which can be seen throughout this Bill. While we are investing record sums in transport across the country—in the north this amounts to £13 billion on transport in this Parliament—we have for far too long accepted that decision-making on that funding has to be made in Whitehall. We need greater local input from those who know their economies best if we want to transform growth in the north and throughout the country. Transport will make a significant difference to that transformation by reducing journey time between the great cities of the north, pooling their strengths and making them greater than the sum of their parts—in short, a northern powerhouse.

Transport for the North is already established and is the unified voice of transport in the north of England. We are working with TfN and other transport bodies on road and rail links in the north and on an integrated smart ticketing system akin to the Oyster card we have in London. I also welcome the recent appointments of John Cridland as chair and David Brown as CEO to drive forward progress.

My right honourable friend the Chancellor also announced extra funding for TfN in the summer but if we want to see long-term permanence and stability,

TfN—and all other STBs—need to be put on a statutory footing. This new clause on sub-national transport bodies will do just that. It creates the legislative framework to allow the Government to set up the first STB, which will be Transport for the North. This will be done by secondary legislation, but other areas could come forward to propose that they are also created as an STB.

STBs will initially advise the Secretary of State for Transport on strategic transport schemes and investment priorities in their own area. The Secretary of State may grant individual STBs additional responsibilities around the decision-making and delivery of strategic transport schemes and significant cross-regional schemes such as the work TfN is already undertaking on smart ticketing. There is also the potential to assume more strategic transport responsibilities over time.

However, as I have already said, this clause goes further than TfN alone. It provides a way to create STBs across the whole of England, outside London, at the request of local areas. For example, noble Lords will know of the newly strengthened Midlands Connect Partnership, which brings together 26 local authorities and 11 local enterprise partnerships, working with national agencies and government to drive forward improved transport links across the Midlands to power the Midlands engine. Accordingly, it is necessary for TfN, Midlands Connect and all future STBs to be enshrined as statutory bodies with appropriate statutory powers, and I commend the amendment to the House.

5.15 pm

Lord Beecham: My Lords, I cannot really account for it but somehow Part 5A of the Local Transport Act 2008 has managed to escape my notice hitherto. I am interested to see that the Government have decided to incorporate reference to transport infrastructure in the devolution Bill, and that is very welcome, but I am not entirely clear about the scope of the proposals before us. Clearly, I welcome the Commons amendments here but, on the face of it, they appear to relate to Highways England and to rail matters, which of course are very important, but I could not see any reference to such issues as ports and airports as part of the functioning of these transport bodies. Perhaps the noble Lord could advise whether they are included and, if not, say why not.

Of course, those of us in the north—the noble Lord has referred to Transport for the North—are very conscious of the huge disparity in the expenditure on transport infrastructure in our part of the country and the vast amounts that have been poured into Crossrail, which we have heard recently is to be further extended. Rather worryingly, it is to go under the block of flats in Balham in which I have a flat. That will no doubt take some time but the disproportion in expenditure is quite remarkable. It is a huge factor and one hopes that it will be redressed.

I am not entirely clear about the likely size of these sub-national transport bodies. A lot of the work will serve to connect different parts of the country but in the part of the country that I come from, in particular, we will be looking at cross-country routes to the north-west—to Cumbria and Carlisle from Newcastle and Sunderland and places on the east coast. For the

[LORD BEECHAM]

purposes of these bodies, will we not be looking at, for example, simply the combined authority area, because that does not extend beyond the borders of Northumberland and Cumbria? If the area is to go beyond that, what sorts of boundaries will we be looking at? If it does not go beyond that, what mechanism will exist to bring together areas which are not part of the same combined authority?

Lord Shipley: My Lords, first, I thank the Minister for his briefing note, which I received last week, on the proposals in this amendment for sub-national transport bodies. I welcome the switch in emphasis that he has referred to. The noble Lord, Lord Beecham, talked about levels of expenditure and, in particular, the enormous amount that is spent on London and the south-east in comparison with the north of England. Having a sub-national transport body of this kind will be extremely helpful in refocusing the attention of Whitehall on the need to fund the north better than it currently does. Therefore, I thank the Minister for that and I think that the proposals are absolutely right but I want to say two things.

The first concerns the question of to whom the sub-national transport bodies will be accountable—in other words, the extent to which the constituent councils of those sub-national bodies will have a regular reporting mechanism. It seems to me very important that there should be a regular means of providing feedback from those councils to the sub-national transport body. Secondly, I hope that the Minister will agree to a system of annual reporting, which occurs elsewhere in the Bill in relation to combined authorities, elected mayors and other matters. Can he confirm that there will also be annual reporting by the sub-national transport bodies? I would find that extremely helpful.

My last point relates to the use of the negative procedure as opposed to the affirmative procedure. The Minister will have seen the report of the Delegated Powers and Regulatory Reform Committee, which challenges the use of the negative procedure. The grounds are that the powers will exist for a limited period of time. The definition of a “limited period of time” does not appear anywhere. Is it a matter of a few months or of two or three years, or is it a matter of something more significant?

I hope that the Government might be persuaded of the importance of using the affirmative procedure. Given the scale and magnitude that this proposal represents in reality, I think that using the affirmative procedure would be better than using the negative procedure. Does the Minister have any comments on that?

Lord Smith of Leigh: My Lords, I also welcome these amendments, and I thank the Minister for the way that he has introduced them. Obviously, this is very important activity, and without statutory backing Transport for the North has already had a major in-fight over agreeing the northern franchises for the rail networks that affect all our northern counties.

In terms of reporting back, I assure the noble Lord, Lord Shipley, that in the process of franchising we in Greater Manchester have had regular reports from our delegates at Transport for the North. There is accountability for what goes on.

I will probably upset the Minister but, while I am on my feet, I will say that one of the great aspects of the deal for devolution in Greater Manchester was the prospect of franchising the buses, which of course account for the vast majority of transport movements in those areas that are involved. I recognise that that will come under separate legislation, a buses Bill, but we still await sight of that Bill and hope that it is not going to be too long.

Lord Ahmad of Wimbledon: My Lords, I thank all noble Lords for their contributions.

I want to pick up on the point made by the noble Lord, Lord Smith, in response to the noble Lord, Lord Shipley. There is accountability, and that accountability is very much to the stakeholders that make up the particular STB. As for the limits or extension of these areas, that will very much be dependent on the local authorities themselves and the collaboration that takes place. The key point I emphasise is one of strategic decision-making, which is the intention behind the creation of such bodies, as we are already seeing with the creation of TfN. Indeed, the reason behind putting TfN on a statutory footing is that the very bodies that make it up have also requested this.

I will now pick up some of the questions raised by noble Lords. The noble Lord, Lord Shipley, also asked about annual reporting. The legislation makes it clear that STBs shall produce and publish their strategy and updates to that strategy. That can be seen with TfN, which produced its additional reports in March 2015 and has plans for annual updates, the next being in March 2016.

The noble Lord, Lord Beecham, asked about the extent to which different modes of transport are covered by STBs. The whole essence of sub-national transport bodies will be to cater for all modes of transport within a defined geography, including ports and airports. This can already be seen in the work of TfN, which has set out quite clearly its plans for all modes of transport, including ports and airports. I take on board totally the point the noble Lord made that this is not just about linking up rail and roads; it is about ensuring that, where there are ports and airports, these also form part of the strategic transport strategy for a given geographical region.

The noble Lord, Lord Beecham, also asked about the size of STBs. As I have already said, it is really up to the local areas to come forward with proposals; it is about bringing together local authorities. There may be some traditionally defined areas, but it is about how local authorities can come together and collaborate across traditional borders to ensure the best result for a particular region. In terms of the requirements, there must be two appropriate authorities to form an STB.

Lord Beecham: A particular authority or area might want to belong to two such networks. For example, one can see clearly that there is a case for the north-east and Cumbria coming together on the horizontal routes. Equally, Cumbria might want to go south towards my noble friend Lord Smith and vice versa. Is it possible to belong to two such networks?

Lord Ahmad of Wimbledon: It is dependent on how the STB proposals come back. However, in practice, I cannot see a deterrent to that because this is about providing strategic links. I am sure all noble Lords will welcome a linking up between the noble Lords, Lord Beecham and Lord Smith, on strategic transport arrangements. The idea behind this is to empower local authorities to make the right decisions for their particular area.

As to specific local authorities belonging to two networks through legislation, what would happen in the scenario painted by the noble Lord is that if a local authority is already part of an STB, there is nothing stopping that local authority, after the creation of a new STB, being co-opted on to the other to ensure that that strategic link is operational.

The noble Lord, Lord Shipley, referred to placing a limit on the period for regulations. The very nature of the temporary transfer of functions is that there will be a clearly limited interim time for this. If a temporary transfer of functions works well and there is evidence to show that there would be value in effecting a permanent transfer, there would be further regulations to ensure that that could take place.

I hope I have answered the questions that have been raised.

Lord Smith of Leigh: Could the Minister comment on the buses Bill and when we are likely to see it?

Lord Ahmad of Wimbledon: I raised the issue of the buses Bill when I was being briefed for this Bill. I know that it is being drafted and we are looking for appropriate parliamentary time to ensure that we can introduce it at the earliest opportunity.

I again thank all noble Lords for their support for the amendment.

Lord Mackay of Clashfern: I think new Section 102T deals with the point made by the noble Lord, Lord Shipley, about requiring affirmative resolution for the generality of regulations under this provision.

Lord Ahmad of Wimbledon: As ever, my noble and learned friend is correct.

Motion agreed.

Motion on Amendment 54

Moved by Baroness Williams of Trafford

That this House do agree with the Commons in their Amendment 54.

54: Insert the following new Clause—

“English National Park authorities: general powers

After section 65 of the Environment Act 1995 insert—

“65A English National Park authorities: general powers

(1) An English National Park authority may do—

(a) anything it considers appropriate for the purposes of the carrying out of any of its functions (its “functional purposes”),

(b) anything it considers appropriate for purposes incidental (whether directly or indirectly) to its functional purposes,

(c) anything it considers to be connected with—

(i) any of its functions, or

(ii) anything it may do under paragraph (a) or (b), and

(d) for a commercial purpose, anything which it may do under any of paragraphs (a) to (c) otherwise than for a commercial purpose.

(2) Where subsection (1) confers power on an English National Park authority to do something, it confers power (subject to section 65B) to do it anywhere in the United Kingdom or elsewhere.

(3) Power conferred on an English National Park authority by subsection (1) is in addition to, and is not limited by, the other powers of the authority.

(4) In this section, and in sections 65B and 65C, “English National Park authority” means a National Park authority for a National Park in England.

65B Boundaries of powers under section 65A

(1) Section 65A(1) does not enable an English National Park authority to do anything which it is unable to do by virtue of a pre-commencement limitation.

(2) Section 65A(1) does not enable an English National Park authority to do anything which it is unable to do by virtue of a post-commencement limitation which is expressed to apply—

(a) to its power under section 65A(1),

(b) to all of its powers, or

(c) to all of its powers but with exceptions that do not include its power under section 65A(1).

(3) If exercise of a pre-commencement power of an English National Park authority is subject to restrictions, those restrictions apply also to exercise of the power conferred on it by section 65A(1) so far as that power is overlapped by the pre-commencement power.

(4) Section 65A(1) does not authorise an English National Park authority to borrow money.

(5) Section 65A(1)(a) to (c) do not authorise an English National Park authority to charge a person for anything it does otherwise than for a commercial purpose.

(6) Section 65A(1)(d) does not authorise an English National Park authority to do things for a commercial purpose in relation to a person if a statutory provision requires the authority to do those things in relation to the person.

(7) Where under section 65A(1)(d) an English National Park authority does things for a commercial purpose, it must do them through—

(a) a company within the meaning given by section 1(1) of the Companies Act 2006, or

(b) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014.

(8) In this section—

“post-commencement limitation” means a prohibition, restriction or other limitation imposed by a statutory provision that—

(a) is contained in an Act passed after the end of the Session in which the Cities and Local Government Devolution Act 2015 is passed, or

(b) is contained in an instrument made under an Act and comes into force on or after the commencement of section (English National Park authorities: general powers) of that Act;

“pre-commencement limitation” means a prohibition, restriction or other limitation imposed by a statutory provision that—

(a) is contained in an Act passed no later than the end of the Session in which the Cities and Local Government Devolution Act 2015 is passed, or

(b) is contained in an instrument made under an Act and comes into force before the commencement of section (English National Park authorities: general powers) of that Act;

“pre-commencement power” means power conferred by a statutory provision that—

(a) is contained in an Act passed no later than the end of the Session in which the Cities and Local Government Devolution Act 2015 is passed, or (b) is contained in an instrument made under an Act and comes into force before the commencement of section (English National Park authorities: general powers) of that Act;

“statutory provision” means a provision of an Act or of an instrument made under an Act.

65C Power to make provision supplemental to section 65A

(1) The Secretary of State may by regulations make provision preventing an English National Park authority from doing under section 65A(1) anything which is specified, or is of a description specified, in the regulations.

(2) The Secretary of State may by regulations provide for the exercise by English National Park authorities of the power conferred by section 65A(1) to be subject to conditions, whether generally or in relation to doing anything specified, or of a description specified, in the regulations.

(3) Before making regulations under subsection (1) or (2) the Secretary of State must consult—

(a) such representatives of English National Park authorities, and

(b) such other persons (if any), as the Secretary of State considers appropriate.

(4) Subsection (3) does not apply to regulations under subsection (1) or

(2) which are made only for the purpose of amending earlier such regulations—

(a) so as to extend the earlier regulations, or any provision of the earlier regulations, to English National Park authorities,

or

(b) so that the earlier regulations, or any provision of the earlier regulations, cease to apply to English National Park authorities.

65D Procedure etc. for regulations under section 65C

(1) The power to make regulations under section 65C—

(a) is exercisable by statutory instrument;

(b) includes power to make different provision for different purposes;

(c) includes power to make incidental, supplementary, consequential, transitional, transitory or saving provision;

(d) may, in particular, be exercised by amending, repealing, revoking or otherwise modifying any provision made by or under an Act passed before the Cities and Local Government Devolution Act 2015 or in the same Session as that Act.

(2) A statutory instrument containing regulations under section 65C may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(3) Subsection (2) does not apply to a statutory instrument that contains regulations only of the following kind—

(a) regulations under section 65C(1) that make provision for the purpose mentioned in section 65C(4)(b);

(b) regulations under section 65C(2) that make provision for that purpose or for imposing conditions on the doing of things for a commercial purpose;

(c) regulations made by virtue of subsection (1)(c) that do not contain provision amending or repealing a provision of an Act.

(4) A statutory instrument to which subsection (2) does not apply is subject to annulment by resolution of either House of Parliament.

(5) If a draft of regulations under section 65C would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.”

Baroness Williams of Trafford: My Lords, this will be my last opportunity to thank all noble Lords who have been involved with this devolution Bill. From my point of view it has been a very constructive process. It is my first Bill and I have rather enjoyed it, given the debates that we have had.

I now beg to move that the House do agree with the Commons in their Amendment 54. I shall speak also to Amendment 77 in relation to the general power of competence for national parks.

I am grateful to my noble friend Lord De Mauley for bringing this issue to my attention. He and I met the national park authorities on 23 July to discuss the matter. Alas, this was after the Bill had left this House, so we sought to resolve the issue by amending the Bill in another place.

Amendment 54 confers new general powers on national park authorities in England similar to those conferred on, among others, fire and rescue authorities and integrated transport authorities in Chapters 2 and 3 of Part 1 of the Localism Act 2011. These new powers for national park authorities can be described as a functional power of competence. The new powers allow an authority to act as an individual could, with certain limitations, in relation to the functions that an authority has. For example, the powers will allow a national park authority to act through a company and to trade in a broader way than it currently can.

National park authorities have asked for this power as they consider it will enable them to act in a more entrepreneurial and innovative way. They believe they will be in a better position to enter into partnerships that will support growth across our rural economy. For example, it will enable them to work in partnership with other bodies more proactively on the rollout of broadband, and to make a contribution towards the implementation of broadband infrastructure. Jim Bailey, the chair of National Parks England, has said:

“We are pleased to see the Government introduce this amendment. This will help National Park authorities to maximise opportunities to fulfil our statutory purposes”.

It is important, though, to understand that a power of competence does not override existing legislation, so national park authorities will continue to be bound by their statutory purposes of conserving and enhancing the natural beauty, wildlife and cultural heritage of an area and promoting opportunities for the understanding and enjoyment of its special qualities.

The statutory framework of protection and consent will remain unchanged, and in using their new powers, the park authorities cannot promote or permit activities that are incompatible with these statutory purposes. The power will not be used to encourage or permit too much or inappropriate development in national parks. It is also important to be clear that this power will not be used by national park authorities as an opportunity for them to start charging entry to national parks. All but a very small percentage of land in national parks is owned privately—this is an important point—not by the national park authorities, and therefore they have no legal basis for doing so.

5.30 pm

Lord Deben (Con): My Lords, can my noble friend give an assurance that these new powers, which are no doubt welcome, will not be used by park authorities to enable them unfairly to compete with people within the parks? Unfortunately, some national parks have behaved in a pretty high-handed way. I think that happens less now than when I was Secretary of State, when I had to deal with such cases. I just want to make sure that the new powers cannot be used in a non-competitive way.

Baroness Williams of Trafford: My Lords, there has been much speculation about what these powers might mean in respect of fracking and so on. The whole purpose of the amendment is to give park authorities the scope to be more innovative, rather than to act in an unduly competitive way with each other.

The part of government Amendment 77 that amends Section 65 of the Environment Act 1995 is minor and technical and contains the amendments consequential on government Amendment 54. I hope that noble Lords will feel able to accept the amendment.

Lord Beecham: My Lords, this amendment is welcome and has been warmly supported by the national parks authorities, although I understand that there was some slight misunderstanding about that on the part of the Opposition in the House of Commons. Certainly, we want to endorse the sentiments of the noble Baroness about the potential for each national park authority. Of course, I come from a part of the world where there is a remarkable national park, and it occurs to me that the Government might want to facilitate a close relationship between combined authorities such as the one in the north-east and, I suspect, the one in the Sheffield area with the Peak District National Park, so they can collaborate in a way that perhaps was not possible before. It would of course be a matter for the authorities, rather than for legislation, but it is something the Government might encourage.

One matter that was raised in the House of Commons was clarified at the time by the Minister, but I invite the noble Baroness to repeat the assurance that nothing in this proposal would facilitate the adoption of fracking in any national park area—that is, that it would not be open to a national park authority to allow such a development. It would be good to have it on the record in your Lordships' House as well as in the Commons.

Lord Shipley: My Lords, I welcome the proposal for the national parks. As with the rest of the Bill, a regular review of how this power is being used would be welcome, and I am sure we will have that.

We thank the Minister for her leadership on the Bill. It has been seven months since we began the process, which we have found rewarding. Although from time to time there have been differences—some still remain—the truth is that the outcome is in the interests of stronger government at the sub-regional and local level in England, and I welcome that. We will see how it goes over the next few years, but I am very optimistic that the groundwork put in by the Minister and her colleagues during this Parliament and the last one is going to bear fruit.

Lord Judd (Lab): My Lords, National Parks England, which is the umbrella body for the park authorities, is making no secret of the fact that it positively welcomes this amendment and sees great opportunities in it. I have one anxiety on which I would like an assurance, but I suspect that it comes at a slightly different angle from that of the noble Lord, Lord Deben. There is sometimes a subjective dividing line between commercialisation of the parks and using commercial opportunities to strengthen their purposes. Elsewhere in legislation the Government have, to their credit, stood firmly by the definition of what national parks are. They are not areas which are ripe for commercial exploitation; rather they are areas in which sensible co-operation between the park and other authorities could do a great deal to strengthen the authority and enhance the well-being of the people in the community. But the purpose of the park is to enable more people from all ethnic groups in Britain to appreciate the contrast of beauty, landscape and all the rest. I suspect that the Minister is 100% on my side on this, but I would like an assurance that this undoubtedly important amendment, containing as it does such great advances, will not be allowed to become an excuse for commercialisation, in the wrong sense, of the parks at the expense of their real purpose.

Lord Beecham: My Lords, I appear to have failed to notice that we are dealing with the last group of amendments. Obviously I want to join the noble Lord, Lord Shipley, in thanking the Minister for her charming and helpful approach to legislation—this will do her reputation as a Minister no good at all—and to thank the members of the Bill team, who have always been helpful and approachable. That has been the case right from the start, I believe, some nine months ago when the Bill was conceived and has now been delivered in its final shape. It bears a great deal to the way in which the noble Baroness and her colleagues have assisted Members from all sides of the House.

Baroness Williams of Trafford: I thank the noble Lords, Lord Beecham and Lord Shipley, for their kind words. All three noble Lords have talked about the power of collaboration between authorities while not undermining what the original intent of the national park functions is. I agree with the noble Lord, Lord Judd, that the new power of functional competence does not change the statutory duty and purpose of the park authority; I can give him an absolute assurance on that. I can also assure the noble Lord, Lord Beecham, that nothing in the proposal facilitates fracking. I think I gave that assurance to my noble friend Lord Deben. It might help him if I read the provisions of new Clause 65C to be inserted under Amendment 54. It states:

“The Secretary of State may by regulations make provision preventing an English National Park authority from doing under section 65A(1) anything which is specified, or is of a description specified, in the regulations”.

The Secretary of State has the power to make sure that the checks and balances are in place for a national park's priorities and functions to be protected.

I think that I have answered all points made by noble Lords and I thank them for the enjoyable experience that this Cities and Local Government Devolution Bill has been.

Motion agreed.

Motion on Amendments 55 to 87

Moved by Baroness Williams of Trafford

That this House do agree with the Commons in their Amendments 55 to 87.

55: Clause 22, page 19, line 8, after “of” insert “, or made under,”

56: Clause 25, page 20, line 3, leave out subsection (2)

57: Schedule 1, page 21, line 29, after “State” insert “or the Chancellor of the Duchy of Lancaster”

58: Schedule 1, page 25, line 28, after “State” insert “or the Chancellor of the Duchy of Lancaster”

59: Schedule 1, page 26, line 12, after “State” insert “or the Chancellor of the Duchy of Lancaster”

60: Schedule 1, page 26, line 13, after “State” insert “or the Chancellor of the Duchy of Lancaster”

61: Schedule 1, page 26, line 17, after “State” insert “or the Chancellor of the Duchy of Lancaster”

62: Schedule 2, page 26, line 33, leave out “police and crime commissioner functions” and insert “functions of a police and crime commissioner”

63: Schedule 2, page 26, line 34, at end insert—

“() A duty under this Schedule to make provision by order is a duty to make such provision in an order made at any time before the first election of a mayor who, by virtue of an order under section 107E(1), is to exercise functions of a police and crime commissioner.”

64: Schedule 2, page 27, line 24, leave out “PCC mayor” and insert “mayor for policing and crime”

65: Schedule 2, page 27, line 25, leave out “PCC mayor” and insert “mayor for policing and crime”

66: Schedule 2, page 27, line 31, leave out “PCC mayor” and insert “mayor for policing and crime”

67: Schedule 2, page 27, line 38, leave out “PCC mayor” and insert “mayor for policing and crime”

68: Schedule 2, page 28, line 4, leave out “PCC mayor” and insert “mayor for policing and crime”

69: Schedule 2, page 28, line 6, leave out “PCC mayor” and insert “mayor for policing and crime”

70: Schedule 2, page 28, line 9, leave out “PCC mayor” and insert “mayor for policing and crime”

71: Schedule 2, page 28, line 23, at end insert—

“4A (1) The Secretary of State may by order provide for a police and crime panel to have oversight functions in relation to any general functions of the mayor that are the subject of arrangements under section 107D(3)(c)(i) (power to arrange for general functions to be exercisable by deputy mayor for policing and crime).

(2) If it appears to the Secretary of State expedient for the police and crime panel also to have oversight functions in relation to other general functions of the mayor that are related to general functions in respect of which an order is made under subparagraph (1), the Secretary of State may by order provide for the panel to have oversight functions in relation to those other general functions.

(3) An order under this paragraph may disapply, or otherwise modify, the application of paragraph 1(3) of Schedule 5A so far as relating to general functions of the mayor in respect of which a police and crime panel has oversight functions.

(4) In this paragraph—

“oversight functions”, in relation to general functions of the mayor, are functions that are of a corresponding or similar kind to those that a police and crime panel has in relation to PCC functions of the mayor;

“police and crime panel” means a panel established by virtue of an order under paragraph 4.”

72: Schedule 2, page 28, line 41, leave out from “mayor” to end of line 42 and insert “and the deputy mayor for policing and crime”

73: Schedule 2, page 30, line 12, at end insert—

“() Subsections (5) and (6) of section 107C, so far as relating to the exercise of PCC functions, are subject to any provision contained in an order under this Schedule.”

74: After Schedule 3, insert the following new Schedule—

“SCHEDULE 3A

AMENDMENTS OF THE NATIONAL HEALTH SERVICE ACT 2006

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

2 (1) Section 7A (exercise of Secretary of State’s public health functions) is amended as follows.

(2) In subsection (2), after paragraph (c) insert—

“(d) a combined authority.”

(3) In subsection (4), after “group” insert “or a combined authority”.

3 In section 13Z (exercise of functions), after subsection (6) insert—

“(7) This section is subject to sections 13ZA and 13ZB in the case of arrangements that are devolved arrangements (within the meaning of section 13ZA).”

4 After section 13Z insert—

“13ZA Section 13Z: further provision in relation to devolved arrangements

(1) This section applies to arrangements under section 13Z(2) for one or more functions of the Board to be exercised in relation to a particular area by or jointly with a relevant prescribed body (“devolved arrangements”).

(2) “Relevant prescribed body” means a body prescribed under section 13Z(2)(c) that is either—

(a) a combined authority whose area includes the whole or part of the area to which the arrangements relate, or (b) a local authority (within the meaning of section 2B) whose area includes the whole or part of that area.

(3) The power of the Board under section 13Z(2) to enter into devolved arrangements in relation to any functions includes power to arrange for such functions to be exercised in relation to the area to which the arrangements relate—

(a) by the relevant prescribed body jointly with one or more other eligible bodies;

(b) jointly with the Board, the relevant prescribed body and one or more other eligible bodies.

(4) A body is an “eligible body” if it—

(a) falls within paragraph (a), (b) or (c) of section 13Z(2), and

(b) exercises functions in relation to the area to which the arrangements relate.

(5) Where, by virtue of subsection (3), the Board enters into devolved arrangements with a relevant prescribed body and one or more eligible bodies, at least one of those eligible bodies must be a clinical commissioning group.

(6) Where, by virtue of subsection (3), one or more eligible bodies are a party to devolved arrangements, the power under section 13Z(4) to establish a joint committee includes a power to establish a joint committee of which one or more of the eligible bodies are members.

(7) But the members of a joint committee established under section 13Z(4) by virtue of subsection (6) must include—

(a) the relevant prescribed body;

(b) at least one clinical commissioning group with whom a function is exercised jointly under the devolved arrangements;

(c) if under the devolved arrangements a function is exercisable jointly with the Board, the Board.

(8) The terms and conditions on which devolved arrangements are made may include terms authorising a joint committee established by virtue of subsection (6) to establish and maintain a pooled fund.

(9) A pooled fund is a fund—

(a) which is made up of payments received from the Board under the devolved arrangements in accordance with terms of payment agreed under section 13Z(5), and

(b) out of which payments may be made towards expenditure incurred in the discharge of any of the functions in relation to which the devolved arrangements are made.

13ZB Section 13Z: arrangements in relation to the function under section 3B(1)(d)

(1) This section applies to arrangements under section 13Z(2) that are or include arrangements in relation to the exercise of a relevant commissioning function.

(2) “Relevant commissioning function” means a function of the Board under section 3B(1)(d) of arranging for the provision of services or facilities in respect of a particular area (“the commissioning area”).

(3) The power to enter into the arrangements under section 13Z is subject to the following provisions of this section.

(4) The arrangements must provide for the relevant commissioning function to be exercisable by at least one relevant prescribed body jointly with—

(a) one or more eligible bodies, or

(b) the Board and one or more eligible bodies, (and the arrangements are, accordingly, devolved arrangements to which section 13ZA applies).

(5) At least one of the eligible bodies mentioned in subsection (4) must be a clinical commissioning group.

(6) The Board may enter into the arrangements in relation to the provision of a service or facility in the commissioning area only if it considers it appropriate to do so having regard to—

(a) the impact on the provision of the service or facility in the commissioning area;

(b) the impact on the provision of the service or facility in other areas;

(c) the number of persons in the commissioning area to whom the service or facility is provided;

(d) the number of persons who are able to provide the service or facility;

(e) the cost of providing the service or facility;

(f) the financial implications for the relevant prescribed body, and for other bodies, with whom the arrangements are made.

(7) Regulations may provide for this section not to apply to arrangements so far as relating to a relevant commissioning function of a prescribed description.

(8) In this section, “eligible body” and “relevant prescribed body” have the same meaning as in section 13ZA.”

5 After section 14Z3 insert—

“14Z3A Joint exercise of functions with combined authorities

(1) A clinical commissioning group may arrange for—

(a) any commissioning function of the group to be exercised jointly with a combined authority;

(b) any commissioning function that the group exercises on behalf of another clinical commissioning group under section 14Z3(2)(a) to be exercised jointly with a combined authority.

(2) Two or more clinical commissioning groups may arrange for any commissioning functions of those groups that are exercised jointly with each other under section 14Z3(2)(b) to be exercised jointly also with a combined authority.

(3) Regulations may provide that the powers in subsections (1) and (2) do not apply in relation to a commissioning function of a prescribed description.

(4) Where any commissioning functions of a clinical commissioning group (or groups) are exercised jointly with a combined authority under subsection (1) or (2), they may be exercised by a joint committee of the group (or groups) and the authority.

(5) Arrangements under subsection (1) or (2) may be on such terms and conditions (including terms as to payment) as may be agreed between the clinical commissioning group (or groups) and the combined authority.

(6) Where two or more clinical commissioning groups enter into arrangements with the same combined authority under subsection (1) or (2), the terms as to payment mentioned in subsection (5) may include terms authorising a joint committee established under subsection (4) to establish and maintain a pooled fund.

(7) A pooled fund is a fund—

(a) which is made up of payments received under the arrangements from all the groups that are parties to the arrangements, and

(b) out of which payments may be made towards expenditure incurred in the exercise of any of the commissioning functions in respect of which the arrangements are made.

(8) Arrangements under subsection (1) or (2) do not affect the liability of a clinical commissioning group for the exercise of any of its functions.

(9) In this section “commissioning functions” means the functions of clinical commissioning groups in arranging for the provision of services as part of the health service (but does not include the function of making a request to the Board for the purposes of section 14Z9).”

6 In section 75 (arrangements between NHS bodies and local authorities), after subsection (7) insert—

“(7A) For the purposes of this section, a combined authority that exercises a prescribed function within subsection (1)(a) of an NHS body under voluntary arrangements is to be treated as an NHS body.

(7B) “Voluntary arrangements” means arrangements made with the combined authority under—

(a) section 7A (exercise of Secretary of State’s public health functions),

(b) section 13Z (exercise of the Board’s functions), or

(c) section 14Z3A (joint exercise of functions with clinical commissioning groups).

(7C) Regulations under this section, so far as made before or in the same Session as that in which the Cities and Local Government Devolution Act 2015 is passed, apply to a combined authority that is treated as an NHS body by virtue of subsection (7A) as if it were a prescribed NHS body for the purposes of those regulations.

(7D) But a combined authority to which regulations under this section apply by virtue of subsection (7C) may enter into prescribed arrangements in relation to the exercise only of functions within subsection (1)(a) that are exercisable by the authority under voluntary arrangements.

(7E) Regulations under this section may provide for the regulations to apply in relation to a combined authority subject to any prescribed limitations or conditions.

(7F) Nothing in subsection (7D) prevents a combined authority from being a party to arrangements made by virtue of this section in relation to any prescribed functions of an NHS body that are exercisable by the authority as a result of an order under section 105A of the Local Democracy, Economic Development and Construction Act 2009 (public authority functions exercisable by combined authorities).”

7 (1) Section 251 (control of patient information) is amended as follows.

(2) In subsection (2)(a), after “health service bodies” insert “or relevant social care bodies”.

(3) After subsection (12) insert—

“(12A) In this section—

“care” includes local authority social care,

“local authority social care” means—

(a) social care provided or arranged for by a local authority, and

(b) any other social care all or part of the cost of which is paid for with funds provided by a local authority,

“patient” includes an individual who needs or receives local authority social care or whose need for such care is being assessed by a local authority,

“social care” includes all forms of personal care and other practical assistance provided for individuals who are in need of such care or assistance by reason of age, illness, disability, pregnancy, childbirth, dependence on alcohol or drugs or other similar circumstances.”

(4) In subsection (13), at the end insert—

““relevant social care body” means—

(a) a local authority, or

(b) any other body or person engaged in the provision of local authority social care.”

8 In section 275(1) (interpretation), after the definition of “clinical commissioning group” insert—

““combined authority” means a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009.”

9 In section 276 (index of defined expressions), at the appropriate place insert—

“combined authority.....Section 275(1)”

75: Schedule 4, page 34, line 22, at end insert—

“Local Government Act 1972

A1 The Local Government Act 1972 is amended as follows.

A2 In section 100E (application of Part 5A to committees and subcommittees), in subsection (3) after paragraph (b) insert—

“(bba) a committee in place by virtue of section 107D(3)(c)(ii) of the Local Democracy, Economic Development and Construction Act 2009;

(bbb) a joint committee in place by virtue of section 107DA of that Act.”

A3 In section 100J (application of Part 5A to new authorities etc)—

(a) in subsection (1) after paragraph (be) insert—

“(bf) a sub-national transport body.”;

(b) in subsection (3), after “(be),” insert “(bf),”;

(c) in subsection (4), in paragraph (a) after “joint authority,” insert “a sub-national transport body.”

A4 In section 101 (arrangements for discharge of functions by local authorities)—

(a) after subsection (1C) insert—

“(1D) A combined authority may not arrange for the discharge of any functions under subsection (1) if, or to the extent that, the function is a mayoral function of a mayor for the area of the authority.

(1E) “Mayoral function” has the meaning given by section 107F(7) of the Local Democracy, Economic Development and Construction Act 2009.”

(b) after subsection (5B) insert—

“(5C) Arrangements under subsection (5) by two or more local authorities with respect to the discharge of any of their functions cease to have effect with respect to that function if, or to the extent that, the function becomes a general function of a mayor for the area of a combined authority.

(5D) Subsection (5C) does not prevent arrangements under subsection (5) being entered into in respect of that function by virtue of section 107DA of the Local Democracy, Economic Development and Construction Act 2009 (joint exercise of general functions).

(5E) In subsection (5C), “general functions” has the meaning given in section 107D(2) of that Act.”

(c) in subsection (13) after “combined authority,” insert “a subnational transport body.”

A5 In section 270 (general provisions as to interpretation), in subsection (1) after the definition of “specified papers” insert—

““sub-national transport body” means a sub-national transport body established under section 102E of the Local Transport Act 2008;”

Local Government Act 1985

A6 The Local Government Act 1985 is amended as follows.

A7 In section 72 (accounts and audit), for subsection (5) substitute—

“(5) Any reference in this section to a new authority includes a reference to—

(a) the London Fire and Emergency Planning Authority;

(b) a sub-national transport body established under section 102E of the Local Transport Act 2008;

(c) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009.”

A8 In section 73 (financial administration), in subsection (2) after “reference to” insert “—

(a) a sub-national transport body established under section 102E of the Local Transport Act 2008;

(b) ”.

76: Schedule 4, page 34, line 23, at end insert—

“A9 The Local Government Finance Act 1988 is amended as follows.

A10 In section 74 (levies), omit subsection (9).”

77: Schedule 4, page 34, line 31, at end insert—

“Local Government and Housing Act 1989

1A (1) The Local Government and Housing Act 1989 is amended as follows.

(2) In section 4 (designation and reports of head of paid service), in subsection (6)(a) for “, (ja) and (jb)” substitute “and (ja) to (jc)”.

(3) In section 13 (voting rights of members of certain committees: England and Wales), in the definition of “relevant authority” in subsection (9), for “(jb)” substitute “(jc)”.

(4) In section 20 (duty to adopt certain procedural standing orders), in subsection (4)(a) for “(jb)” substitute “(jc)”.

(5) In section 21 (interpretation of Part 1 of Act), in subsection (1) after paragraph (jb) insert—

“(jc) a sub-national transport body established under section 102E of the Local Transport Act 2008;”

Railways Act 1993

1B (1) Section 24A of the Railways Act 1993 (Secretary of State franchise exemptions: operator agreements) is amended as follows.

(2) In subsection (4)—

(a) in paragraph (a), after sub-paragraph (i) insert—

“(ia) an STB.”;

(b) in paragraph (b), after “Executive” insert “, an STB”;

(c) in paragraph (c)(i), after “Executive” insert “, STB”;

(d) in paragraph (c)(ii), after “Executive” insert “, STB”.

(3) In subsection (5)—

(a) in paragraph (a) of the definition of “relevant company”, after “Executive” insert “, an STB”;

(b) in paragraph (b) of that definition, after “Executive” insert “, an STB”;

(c) after that definition insert—

““STB” means a sub-national transport body established under section 102E of the Local Transport Act 2008.”

Environment Act 1995

1C (1) Section 65 of the Environment Act 1995 (National Park authorities: general purposes and powers) is amended as follows.

(2) In subsection (5), after paragraph (b) insert—

“Paragraph (b) is subject to subsection (6A).”

(3) After subsection (6) insert—

“(6A) Subsection (5)(b) does not apply in relation to a National Park authority for a National Park in England (see instead section 65A for general powers of such authorities).”

Local Government Act 1999

1D In section 1 of the Local Government Act 1999 (best value authorities), in subsection (1) after paragraph (hb) insert—

“(hc) a sub-national transport body established under section 102E of the Local Transport Act 2008;”

Freedom of Information Act 2000

1E In Schedule 1 to the Freedom of Information Act 2000 (public authorities), in Part 2 (local government: England and Wales), after paragraph 28 insert—

“28A A sub-national transport body established under section 102E of the Local Transport Act 2008.”

78: Schedule 4, page 34, line 35, leave out “In section 91 (exercise of local authority functions),” and insert “(1) Section 91 (exercise of local authority functions) is amended as follows.

(2) ”

79: Schedule 4, page 34, line 36, at end insert—

“() In subsection (4)—

(a) omit “or” at the end of paragraph (a);

(b) after paragraph (b) insert—

“(c) for the function to be exercisable by the EPB and the local authority jointly, or

(d) for the function to be exercisable by the EPB jointly with the local authority but also continue to be exercisable by the local authority alone.”

80: Schedule 4, page 35, line 2, leave out lines 2 to 4 and insert—

“(2A) But section 85 of that Act, in its application to a combined authority by virtue of subsection (2), is subject to subsections (2AA) and (2AB).

(2AA) If the area of the combined authority includes the area of the whole of a county that comprises the areas of one or more district councils, the representative councils for the purposes of section 85(1)(c) of that Act (as applied to a combined authority) are either the county council or the council for each of the districts (as determined by or in accordance with the order).

(2AB) In relation to a mayoral combined authority, section 85(4) of that Act is not to be taken as preventing the mayor from being a voting member of the authority.”

81: Schedule 4, page 35, line 13, leave out paragraph (b)

82: Schedule 4, page 35, line 38, at end insert—

“8A In section 113 (requirements in connection with changes to existing combined arrangements), after subsection (3) insert—

“(4) This section does not apply to an order under section 106(1)(b) that is made as a result of the duty in section 105B(1D) or 107B(4).”

83: Schedule 4, page 35, line 43, at end insert—

“() After subsection (1) insert—

“(1A) In relation to an order under Schedule 5B, subsection (1) has effect as if the reference to the Secretary of State were a reference to the Secretary of State or the Chancellor of the Duchy of Lancaster.”

84: Schedule 4, page 36, line 2, at end insert—

“10A In section 115 (transfer of property, rights and liabilities), in subsection (1) after “liabilities” insert “(including criminal liabilities)”.

10B In section 116 (consequential amendments), after subsection (1) insert—

“(1A) In relation to an order under Schedule 5B, subsection (1) has effect as if the references to the Secretary of State were references to the Secretary of State or the Chancellor of the Duchy of Lancaster.”

85: Schedule 4, page 36, line 27, at end insert—

“Equality Act 2010

12A In Schedule 19 to the Equality Act 2010 (public authorities), in Part 1 (general), after the entry “A joint authority established under Part 4 of that Act for an area in England (including, by virtue of section 77(9) of the Local Transport Act 2008, an Integrated Transport Authority established under Part 5 of that Act of 2008)” insert—

“A sub-national transport body established under section 102E of the Local Transport Act 2008.”

86: Schedule 4, page 37, line 8, at end insert—

“Local Audit and Accountability Act 2014

18 (1) The Local Audit and Accountability Act 2014 is amended as follows.

(2) In section 40 (access to local government meetings and documents), in subsection (6) after paragraph (j) insert—

“(ja) a sub-national transport body;”

(3) In section 44 (interpretation of Act), in subsection (1) after the definition of “special trustees for a hospital” insert—

““sub-national transport body” means a sub-national transport body established under section 102E of the Local Transport Act 2008.”

(4) In Schedule 2 (relevant authorities), after paragraph 28 insert—

“28A A sub-national transport body.”

87: In the Title, line 5, after “functions;” insert “to confer power to establish, and to make provision about, sub-national transport bodies;”

Motion on Amendments 55 to 87 agreed.

Armed Forces Bill

First Reading

5.41 pm

The Bill was brought from the Commons, read a first time and ordered to be printed.

Welfare Reform and Work Bill

Committee (5th Day)

5.41 pm

Relevant document: 13th Report from the Delegated Powers Committee

Clause 21: Reduction in social housing rents

Amendment 104BC

Moved by **Baroness Evans of Bowes Park**

104BC: Clause 21, page 20, line 23, after “began” insert “at or”

Baroness Evans of Bowes Park (Con): My Lords, I will speak to the government amendments which are largely technical in nature and stem from issues that have been raised with us. The amendments seek to improve the drafting of the Bill and ensure that the policy can be implemented smoothly. We also intend that they will be helpful to social housing providers. I am aware that my noble friend had helpful meetings with your Lordships before Christmas to explain the purpose of these amendments. I will now seek to put that forward to the House.

Amendment 104BC is a minor technical amendment. It closes a small gap in the drafting of the provisions to bring into the scope of Clause 21 any tenancies that began at,

“the beginning of 8 July 2015 but less than 12 months before the beginning of the first relevant year”.

[BARONESS EVANS OF BOWES PARK]

Under Clause 22, we have set out some exceptions to the policy. The purpose of the exceptions in Clause 22(2) and (3), and the equivalents in Schedule 2, is to protect the value of stock held by social sector landlords, to provide confidence to the financial sector and to ensure that providers can continue to use their stock as security for borrowing.

Amendments 108B to 108D and Amendments 110C to 110E improve the drafting of those exceptions and clarify that they apply to the registered provider's interest in the property only if the relevant steps are taken for the purpose of enforcing the lender's rights under the security as intended. They also clarify that for the purpose of these exceptions, where a registered provider appoints an administrator, this is a step to enforce security.

We have brought forward Amendment 110F in response to concerns regarding the potential for practical implementation difficulties in certain circumstances. The new clause, "Implied terms", is intended to help social housing providers to comply more easily with the requirement for rent reductions for social tenants. The amendment overrides any provision of individual tenancy agreements that may prevent providers varying the tenancy agreement to reduce rents on the most appropriate annual timescales. This is a somewhat technical amendment, so it may help if I provide some background in order that its purpose, which is to assist providers, can be better understood.

The Bill requires social providers to reduce by at least 1% the rents payable by their individual tenants over each of four relevant years. Each provider has a single relevant year, which, as a general rule, will run from April to March. However, a private registered provider with an established practice of co-ordinated rent years for the majority of its tenants may choose instead to use that period as its relevant year. If there is no clear majority the default is that the provider must use 1 April.

5.45 pm

Many providers have in place at least some tenancy agreements that will be out of step with their relevant years because the agreements would not ordinarily allow the necessary reduction at the beginning of the relevant years. This has the potential to create practical implementation difficulties for a provider who would be faced with either taking on the administrative burden of negotiating the variation of the agreement to provide for a new rent review date or waiting to reduce the rent for such tenancies until the review date specified in those tenancy agreements. The latter option would require the provider to implement deeper reductions at that point in order to comply with the requirement to secure a 1% reduction over the course of the year. The purpose of this new clause is to overcome these difficulties by overriding any provision of individual tenancy agreements that may prevent providers varying the tenancy agreement to reduce rents on the most appropriate annual date.

Amendment 104DA is a related consequential amendment to Clause 21, which is needed because the new clause, "Implied terms", potentially changes a

provider's rent review cycle, which is relevant to whether a provider may operate a relevant year that does not start on 1 April. The relevant provision is Clause 21(6), which provides that a private registered provider may operate a relevant year that does not start on 1 April if its,

"practice as regards the greater number of its tenancies is to change rent payable no more than once a year and with effect from",

another date. The consequential amendment sets out that the provider's practice with regard to rent reviews should be determined with regard to the year to 31 March 2016. It also clarifies that a provider's practice with regard to rent reviews relates to its practice in relation to its social housing.

We have also brought forward a new clause under Amendment 110G which will set out how the rent reduction policy applies if there is a transfer of housing stock from one provider to another: for example, as part of a merger or if one provider sells housing stock to another. Our aim in bringing forward the amendment is to provide for smoother transfers of housing stock which take account of the rent reduction policy, thus reducing administrative burdens on the new provider. The new clause puts in place a clear rule for how the rent reductions should be calculated when property is transferred and provides that the former provider's relevant years should continue to apply. The four years of rent reductions will apply to a particular tenancy whether or not the providers have corresponding relevant years.

It may be helpful to clarify that any exemption under Clause 23 would be granted in respect of a particular provider and therefore would fall away when stock is transferred. This new clause modifies that basic position. It provides that where housing stock subject to an exemption is transferred to a new provider, the exemption will continue to apply to the housing in question until the end of the relevant year. Amendment 110J is a consequential amendment to Clause 27 which simply ensures that the powers of the social housing regulator to set and revise standards relating to levels of rent also extend to the new clause.

We have brought forward Amendment 110H to address potential concerns that the rent reductions may have an unintended extended impact for some providers. The new clause, "Transitional provision", seeks to prevent this by making provision allowing providers, if they wish, to review rents immediately after the end of the rent reduction period, rather than waiting to do so until whatever rent review date is provided for in individual tenancy agreements. This could otherwise be some time after the end of the rent reduction period.

The intention of the amendment is to allow providers flexibility in choosing how to transition from the rent reductions. Providers may bring forward their first post-restriction rent review to any date between the end of the rent reduction period and the normal contractual rent review date. Where the agreement provides for rent reviews that are approximately annual, or less frequent, the provider thereafter has the option to shift all its subsequent rent reviews forward to maintain its normal rent review intervals or to revert to its original rent review cycle. This amendment is

intended to assist the sector to ensure a smooth transition at the end of this measure in a manner that provides a fair degree of flexibility.

Amendments 110K, 110L and 110M are small but important amendments. The Secretary of State has taken a power in the Bill to issue consents to the use, by a provider, of an alternative permitted review date as the reference point when setting rent in the first relevant year. Importantly, these amendments ensure that these powers come into force on Royal Assent. If such a consent is not granted, the reference point for rent reductions under Clause 21 and assumed rent under paragraph 1 of Schedule 2 is the rate of rent applied on 8 July 2015. By commencing these powers on Royal Assent, the Secretary of State will be able to issue such consents before the main provisions come into force, which will enable providers to plan for setting rents at a higher level than they would otherwise have been able to do.

The provisions allow the Secretary of State to grant a consent which covers a particular case or a description of cases. It is our intention to issue a general consent to enable a provider that, on 8 July 2015, had not implemented its 2015-16 rent increase to use a later date as the reference date. Our intention is that the general consent will cover the majority of providers that need consent for an alternative permitted review date. If, exceptionally, any providers need an individual consent, an application will need to be submitted to the Secretary of State which will be considered on its individual merits. Our aim is to issue a general consent as soon as feasible after the Bill receives Royal Assent.

I apologise to the House for the length of these opening remarks, but, as I said, these are technical amendments and I wanted to ensure that the House had our rationale for them. On that basis, I beg to move the amendment standing in my noble friend's name on the Order Paper.

Lord McKenzie of Luton (Lab): My Lords, we thank the Minister, the noble Baroness, Lady Evans, for her introduction and we are grateful for the separate briefing that we received before Christmas with her colleague, the noble Baroness, Lady Williams. This is a very substantial list of government amendments, but we will not oppose them, as overall they are intended to make the policy work more effectively and securely. We understand that they are, in essence, technical.

However, we might just reflect on the fact that in Committee in another place we saw the introduction of four new clauses and one substantial new schedule, with more government amendments on Report. The amendments in this group include those—for example, 108B—which replace provisions inserted by government amendments in Committee in the House of Commons. This creates the impression that the policy has not been fully worked through. I wonder what else is being worked on which will require amendment before we are finished with this Bill.

We know from the Government's briefing note of Clauses 21 to 28 and Schedule 2 that work is under way on regulations to come into force on 1 April 2016. These are to cover further exceptions but also alternative provision for accepted categories and alternative conditions for granting directions. Regulations are also to cover

the enforcement of Schedule 2 by the regulator. Can the Minister say whether we will see at least a draft of these regulations before we get to Report? Clearly, the clock is ticking, and drafting must have reached an advanced stage if the regulations are to come into force on 1 April this year.

So far as Clause 23 is concerned, there is the opportunity for the Secretary of State to direct that the provisions of Clause 21 do not apply to a local authority if it would be unable to avoid serious financial difficulties. Similar considerations arise for private registered providers, where the regulator has to take a view on financial viability. Can the Minister say whether any general guidance will be published covering these matters? We note that the Secretary of State is taking powers to publish measures which individual local authorities can take, so we are back with central government micromanaging the affairs of local authorities—so much for devolving power. But as I say, we do not and will not oppose these amendments.

Lord Kirkwood of Kirkhope (LD): My Lords, I support what the noble Lord, Lord McKenzie, has just said. He is right to say that the process of this particular measure and its sections through its various parliamentary stages has been less than best practice. Of course, it is not the Minister's fault; I think that the Committee is grateful to her for her concise explanation of what these amendments seek to do, and it is agreed that they are, by and large, improvements. However, having substantial bits of policy of the kind covered by the sections and amendments that we are dealing with this evening in a summer Budget Statement, with no prospect of any consultation beforehand—an ex cathedra Statement by the Chancellor of the Exchequer, and then a long Summer Recess where everybody tries to work out what on earth it all meant—is not a good way of producing legislation.

It does not surprise me that there was a degree of confusion at the Commons Committee stages and that we are now faced at this quite late stage with admittedly helpful amendments. However, they are technical and they need consideration, because they increase the corpus of housing law and make things more complicated. Not only does the primary legislation make it more complicated; it will spawn secondary legislation. This House will no doubt look forward to studying it in great detail, larding and littering the statute book with consequential changes, including protecting mortgagees, implied terms in leases—which is always dangerous; from a legal point of view, implication by statutory legislation is never a good thing—and transitional protection, which may well be necessary. But at this stage I think it is appropriate for the noble Lord, Lord McKenzie, and the Committee to say to the Minister that housing Bills and measures of this kind should be done properly. Consultation and Green Papers are always an advantage. If we had had a Green Paper in relation to these clauses, some of the difficulties that the Minister faced in introducing these amendments could have been avoided and could be avoided in future.

Baroness Evans of Bowes Park: I thank both noble Lords for their contributions and take note of the points that they raised. In specific relation to the draft

[BARONESS EVANS OF BOWES PARK]

regulations, we will be putting out information on our detailed intentions in due course, and I will look at what more information can be provided at Report.

Lord McKenzie of Luton: Can I just press the Minister a bit to say what “in due course” means? Can we narrow that timeline a bit? For example, is it likely to occur before we get to Report?

Baroness Evans of Bowes Park: As I said, we will look at what information we can provide for Report; I am afraid that I cannot go further than that.

Amendment 104BC agreed.

Amendment 104C

Moved by Lord Kerslake

104C: Clause 21, page 20, line 36, leave out “, second or third” and insert “or second”.

Lord Kerslake (CB): My Lords, I rise to move Amendment 104C. In doing so, I declare my interest as chair of Peabody and president of the Local Government Association. I will also speak to the other amendments in this group that have been tabled in my name, so I hope that noble Lords will bear with me if this takes a little time. I also support the amendments in this group tabled by other noble Lords.

These amendments are all consequential on the Government’s new policy, announced in the July Budget, that social rents should be reduced by 1% per annum in England for the next four years, starting in April 2016. It is therefore appropriate that I say a few words about this policy as background to and rationale for the amendments I have tabled. The policy represented a complete reversal of the previous coalition Government’s policy, announced as part of the 2013 spending review, that rents would rise by the increase in the consumer prices index—CPI—plus 1% for a period of 10 years.

It is instructive to note that this formed part of the infrastructure report *Investing in Britain’s Future*, which accompanied the spending settlement report. The joint foreword to that report from the Chancellor and the Chief Secretary to the Treasury began:

“Britain at its best is a country that invests in the future”.

In his speech introducing the report to the other House, the Chief Secretary said:

“Our housing associations have told me that they can do more. To do that, they need certainty on rents, alongside public investment. So today I can provide both those things: I can guarantee that social rents will be set at the consumer prices index plus 1% out to 2025”—

note the word “guarantee”—

“and I can provide £3 billion more capital over three years from 2015 to deliver 165,000 new affordable homes”.—[*Official Report*, Commons, 27/6/13; col. 467.]

6 pm

I have quoted that at length to emphasise that this proposal was part of infrastructure planning and governing for the long term. The clear rationale was to provide long-term certainty on rents in order to boost

private investment and to enable housing associations to do more on the supply of new affordable housing. There were, of course, some trade-offs: the previous policy of so-called convergence towards common rent levels was ended, and the increase was less than the previous RPI-based formula. Overall, though, housing associations welcomed the certainty that it gave them and the ability to plan ahead.

In the event, that guarantee has lasted just one year. This does not say a lot for government guarantees. Commenting in November, when it published its report on the cuts to social rents, the Institute for Fiscal Studies’ senior research economist, Robert Joyce, said:

“Recent policy on social rents displays a worrying lack of consistency”.

It is hard to disagree with him.

The consequence of the new policy is that rents will be 12% lower at the end of the four years than they would otherwise be, had the previous policy been continued. In financial terms, the IFS calculates that rental income for social landlords will reduce by £2.3 billion per year by 2019-20, with £1.3 billion coming from housing associations and a further £1 billion from local authorities.

When making the announcement, the Government highlighted the benefit of lower rents to tenants. In reality, as the IFS report makes clear, the policy largely represents a transfer from social landlords to the Exchequer. Of the £2.3 billion saving through lower rents, fully £1.7 billion will be offset by lower benefit entitlements. For the two-thirds of tenants who are on benefits, there will be no direct gain.

Another justification put forward for the policy was that housing associations and local authorities need to become more efficient. There is undoubtedly scope to improve efficiency in the management of social housing, including in my own association Peabody. Indeed, the role of the regulator was strengthened under the last Government to help secure the delivery of this. However, the savings made were intended to be reinvested in greater supply, continuing reductions in grant rates and improved services for tenants. They will now go towards meeting the shortfall in rental income.

In reality, the primary, if not sole, purpose of the rent reductions was to deliver a contribution towards the £12 billion in welfare savings. This is ultimately for the Government to determine, but it will come at a price, and it is important to be aware of that. We cannot yet say exactly what the impact of the new rents policy will be on affordable housing supply. We can say that the uncertainty created with lenders by the policy reverse is likely to increase the costs of borrowing.

Housing associations and local authorities, committed as they are to new supply, will work hard to limit the damage. However, the Office for Budget Responsibility has calculated that the cumulative effect of the Government’s new policies, including the rent reductions, will be that housing associations will build 43,000 fewer properties over the life of this Parliament. This is a significant loss at a time when we should be looking to housing associations to build more, not less. For local authorities, the rent cut will effectively

end the planned council investment in new building which was beginning to emerge following the self-financing settlement.

In an ideal world, the best course would be to return to governing for the long term and to reinstate the previous policy. However, I recognise that it would not be realistic to confront the policy head-on. Therefore, the amendments I have put forward seek to have ameliorating effects on that core policy.

The first two of my amendments, Amendments 104C and 104D, seek to reduce the period of rent reduction from four years to three. By the fourth year, 2019-20, the Chancellor anticipates that he will be in budget surplus. In the circumstances, it is hard to see the logic for continuing the rent reduction policy. Taking one year off has a significant impact on the long-term financial effect on social landlords.

My third amendment, Amendment 104E, seeks to do three things. First, it would reduce uncertainty by putting it beyond doubt that the previously agreed policy of CPI plus 1% will be returned to. Secondly, it would commit the Secretary of State to a review of the impact of the policy. Thirdly, it would use the review to establish whether social landlords should have greater flexibility to set social rents themselves. Let me take each of those in turn.

The initial indication from Ministers following the announcement was that the rent reductions had been calculated to offset the higher level of increase in social rents above market rents for the previous four years, so the idea was to recover a higher level of rent increase. On that basis, rents could and should be anticipated to rise again in line with the original plan of CPI plus 1% at the end of the four-year period. Subsequent to this view being expressed—I understand at the behest of the Treasury—the signalled intention to return to CPI plus 1% after four years was not referred to again.

This ambiguity has greatly added to the uncertainty for housing associations and lenders. Some housing associations are developing plans assuming a return to CPI plus 1%; others are planning on the basis that it will not return. The impact of this uncertainty on future investment plans is considerable, and it affects both the plans themselves and the viability of individual schemes. Amendment 104E therefore seeks to clarify this point and confirm it in the Bill. If this is the Government's intention and unforeseen circumstances then arise that require them to reconsider, it would of course be open to them to bring forward fresh legislation, but, crucially, the amendment would make the intent clear to housing associations and local authorities so that they could plan ahead with greater certainty.

As I said earlier, this is a complete departure from previous policy on rents. The impact assessment talks about high balances and the potential for efficiency savings, but puts no figure on the potential impact. We therefore have to rely on the OBR estimate of that impact, which is that the number of new houses will fall. Given the radical departure involved, it seems to me to make absolute sense for the Government to commit to review the impact before they make any other decisions.

It also makes sense to see whether greater flexibility for social landlords could be achieved in setting rents more generally, something the National Housing Federation has long argued for. In a world where the Government are supporting greater devolution to local government and reduced regulation of housing associations, it seems to me very centralist for increases in social rents to be determined nationally.

Amendment 108A specifically relates to properties designed to meet the needs of disabled or elderly people and seeks to exempt them from the rent reduction. Housing that specifically meets the needs of elderly and disabled people is rightly exempted from the right to buy for local authorities. In the previous Government, Ministers proudly championed their investment in new housing to enable older and disabled people to live independently for as long as possible. Such affordable, supportive housing is designed to be accessible and aid independent living by having, for example, very few or no stairs, cupboards at reachable height for wheelchair users and adapted bathrooms that are easy to access for older and disabled people. Boris Johnson said when the 2013 programme was announced:

"It is essential that we increase the supply of purpose built, quality homes for older and disabled Londoners if they are to have a real choice in how and where they live".

There is currently an insufficient supply of such housing for what is a growing number of people in need of it. It follows that we should not do anything that puts the supply of such new housing at risk, particularly as it involves higher capital costs and, ultimately, future maintenance costs. Exempting these properties from the reduction would send a clear signal that the Government continue to see the provision of such purpose-built properties, with the opportunities they provide for independent living, as a priority for government.

I fear that the Government's new rent policy has created considerable uncertainty in the market and reduced the capacity of social landlords to invest. It has undermined the long-term ambition articulated so clearly by the former Chief Secretary to the Treasury, Danny Alexander, to create a stable platform for new affordable supply. However, the Government have now set their course and are unlikely to be diverted from it. I hope, though, that they will carefully consider the amendments that I have put forward, along with others, and seek to mitigate its impacts. I beg to move.

Lord Best (CB): My Lords, I rise to support the amendments in the name of my noble friend Lord Kerslake and to speak to Amendment 108 in this group. These amendments all address the implications of the Government's plan to require housing associations and councils to reduce their rents by around 12% over the next four years. It has often been said that rent controls were the reason for the private rented sector declining from more than 60% of the nation's housing after World War II to a meagre 8% or so by 1990. For sure, the new rent cuts will also have unintended consequences.

The Government, in the DWP's impact assessment for this measure, justify the rent cuts on the grounds that housing association rents have been increasing at a much greater rate than those of private landlords,

[LORD BEST]

but it has been government policy that associations should raise their rents toward market rent so that social housing grants can be cut. The higher rents have been necessary to enable associations to borrow more to compensate for grants being reduced from some 90% of the costs of a new home down to around 15%. Lower grants and higher rents have meant more people needing housing benefit. Although previous Conservative Housing Ministers have said, "Let housing benefit take the strain", now Ministers responsible for welfare want to dramatically reduce housing benefit expenditure and the rent cuts are intended to save nearly £2 billion per annum by 2021 and every year thereafter. These savings will have significant negative consequences for the Government's housing policy.

The housing associations, whose incomes will have fallen by £1.6 billion per annum by 2020-21, and annually thereafter, can try to make up the difference in three ways. First, they can cut their development programmes, which would damage the Government's hopes for the building of substantially more homes, as explained by my noble friend Lord Kerslake. Secondly, they can cut their revenue costs; a number have already announced that their added-value programmes will be axed, such as tackling anti-social behaviour, supporting loss-making specialist housing, helping people into work, reducing tenants' energy costs and so on. Removing these local services means extra costs for society elsewhere. Thirdly, associations can reduce the surpluses that some have generated in recent years, but these surpluses have been ploughed back into housing and services, as well as being important in satisfying lenders, from whom the housing associations have been borrowing some £3.5 billion a year on excellent terms. With increased risk, raising loans will be more difficult and more expensive.

6.15 pm

As far as local authorities are concerned, those that have retained their council housing are currently charging rents rather lower than those for housing association properties, so cuts in their rents are likely to be particularly difficult. For council landlords, any hope of developing new homes is likely to be the first casualty of their rent cuts, so once again the rent cuts impact on supply.

Taken across the piece, no doubt the social housing sector will survive and the opportunity for a waiver for housing associations that might otherwise get into serious financial difficulty is helpful. But the overall result will be reduced housebuilding programmes and a reduction in the preventive local services that have been doing so much for local communities, to which I can testify from the extremely impressive entries for this year's Chartered Institute of Housing annual awards, for which I am a judge. So I strongly support all the amendments in the group in the name of my noble friend Lord Kerslake.

I now turn to Amendment 108 and I will speak later to Amendment 109, both of which pick up on the situations where the enforced rent cuts would be particularly disastrous. Amendment 108 covers housing co-operatives and community land trusts. The fully mutual housing co-operatives are a different kind of legal entity from the other kinds of housing association:

the tenants who live there own their homes together through the co-op and all the board members are tenants. The tenants are their own landlords. They set their own budget and decide how their rent is spent. They operate very cost-effectively by putting in their own time and effort. It cuts across the ethos of a co-operative venture for government to decide that the rent that the co-op members have chosen to charge themselves should be cut. Since they have set those rents high enough only to meet their loan obligations and management and maintenance costs, there is no fat to be trimmed. The co-ops do not charge themselves rents that generate surpluses to build more homes since the purpose of the co-op is to house themselves. Indeed, they are likely to have been saving the Government money for years by setting lower rents that mean lower housing benefit costs than for comparable social housing.

I do not think that it is the Government's intention to impose four years of rent cuts on these volunteer-run self-help bodies, nor to expect these volunteers in each of the co-ops to go through a tortuous process to persuade the Homes and Communities Agency to grant a waiver to exclude each co-op from the rent cuts. This would be a dreadful waste of the time of these bodies and of the Homes and Communities Agency. They represent a very small section of the total social housing sector. It would be good if the Minister would clarify that the fully mutual housing co-operatives will indeed be exempt from this rent cut.

Similarly, my expectation is that the Government will wish to exclude community land trusts that are classified as "registered providers" from this 12% rent reduction. These organisations, mostly in rural areas, provide housing and community facilities on land made available on favourable terms for local benefit. Only eight of them would be covered by the rent reduction proposal. They have fewer than 100 rented homes between them. However, these bodies, being new enterprises highly dependent on local support from the communities where they are trying to meet a local need, are particularly vulnerable to any loss of expected income. The national network for community land trusts demonstrates that two would become insolvent very quickly and all of them would run into financial difficulty soon thereafter. The Lyvennet Community Trust in Cumbria, for example, a big society vanguard scheme recently commended by the Prime Minister, would lose £200,000 per annum of planned income and would be unable to survive.

I am told that, in exploring the opportunity to obtain a waiver from the rent cuts because the loss of rent would put them out of business, it has been suggested that the CLTs could ask much larger housing associations to absorb their modest stock of new homes. However, often after years of volunteer work in their village, these fledgling community land trusts are extremely reluctant to transfer their assets to a bigger organisation not necessarily based anywhere in their locality. Government has been supportive of these very local community-based initiatives and I am sure there is no desire to force them into insolvency or make them hand over their assets to a larger housing association. They have acted in good faith in securing local contributions of time, money and, above all, land and have been very prudent in their budgeting. Suddenly to face the prospect of a significant reduction

in their income would be more than unfortunate and I know they would be very grateful for some reassurance from the Minister that these little enterprises will be outside the new measure.

Lord Beecham (Lab): My Lords, I represent a ward in Newcastle-upon-Tyne—I declare my interest as a serving councillor there and as a vice-president of the LGA—which will be affected by various aspects of the Bill, but particularly by a matter that is the subject of an amendment in the name of the noble Lord, Lord Ramsbotham, who is not in his place, which deals with exceptions to rent reductions for registered providers of social housing which are almshouse charities. I have received two communications about that group, one from a London authority and another from a body called the Hospital of St Mary the Virgin in Newcastle, which operates two schemes, one in my ward—a place called Thomas Horsley House—and another in an adjoining ward. That body is very worried about the possibility of almshouses being forced to reduce the rents they charge. It provides homes for single, poor, older men and currently charges rents of £55 a week in one of the two homes and £57 a week in the home in my ward. Those charges include gas, electricity, water, TV licences for all the over-60s and all repairs and maintenance. The only things that are excluded are council tax, phone bills and TV licences for the under-60s. The body informs me that it has,

“been able to maintain these rents at considerably less than the market rate because we are beneficiaries of the related Estates Trust”.

I know that development well. It is a modern development with very nice accommodation and is on a bus route. It is adjacent to another very good scheme provided by Anchor Housing. For that very similar accommodation, Anchor Housing charges £101.20 per week, which is a considerable difference. The Hospital of St Mary the Virgin says:

“We have taken great care only to increase the rents ... by c.£1-2 per week per year, to enable us to maintain the wages of staff at or above the Living Wage, to pay for any increases in utilities”,

and so on. However, the body says that it would find it very difficult indeed to continue to do that if it is compelled to reduce the rents.

I suspect that this is not a large group of social housing providers, but there will be almshouses up and down the country and if they follow the model followed by the body in my ward, they are providing very good value for a vulnerable group of people at a low cost which they will find difficult to sustain, and their tenants will have difficulty meeting higher payments should almshouses be affected by this measure. I very much hope that the Government will consider almshouses and housing co-operatives, which have also been mentioned, as bodies which should not be obliged to reduce their rents, with the implications that that would have.

It is estimated that, over time, Newcastle would lose some £529 million which would otherwise be invested, not just—I say “just”—in building new houses but in maintaining the existing stock. This poses a very considerable threat to the activities of an arm’s-length management company, Your Homes Newcastle, in regard to a substantial holding of houses. The problem

here is that reductions in rents would affect not just the potential maintenance of the existing stock but the building of new houses, as noble Lords have mentioned. The impact is already being felt in the ward I represent. Two small schemes in the ward were going forward to tender. Two housing associations withdrew because they were concerned about the viability of the schemes and another is still on the margins of deciding whether to go ahead and, if it does go ahead, it will be on a somewhat different basis. Neither of these is a large scheme.

A relevant consideration is that the smaller the scheme, the bigger the potential impact on the housing association because it is less possible to provide cheaper housing if you are unable to compensate for that to some extent by providing housing that will attract a market rent or that can be sold. The impact of possible rent reductions and of right to buy is already visibly acting as a deterrent to the provision of new housing in my authority, where it is very much needed, and, I guess, in many authorities up and down the country. The Government really need to rethink the impact of this policy beyond the financial gain they will obtain from the reductions in housing benefit—a matter I first brought to light in a Written Question I tabled some months ago, and about which I have made previous mention. There is a very significant gain from that point of view but with very damaging implications for local housing and people who need it, including people who need it more than most—that is, the people catered for by the charities to which I have referred. I hope that the Government will look very sympathetically at the needs of those bodies but also at the impact of the measure on housing need generally in areas that are already hard pressed.

While the Government are doing that, they might take a look at what they are doing—if anything—about rents in the private sector, where, of course, a great deal of housing benefit goes. Today we read of very substantial private rented housing increases across the country. To my astonishment, the rise in Newcastle in percentage terms is the same as that in London. Rents in London have been, and are, going up very considerably. They are going up even higher, I understand, in some other places. I think rents in Bristol have been cited in the *Guardian* as going up by something like 18% in a year. That is very difficult for people to cope with but must necessarily impose a charge on the public purse as well. What do the Government propose to do to protect tenants in that sector from that kind of rent increase and, indeed, to protect the Exchequer’s interest, given the consequences of rent increases in that sector? None of that seems embodied in the legislation, yet it will have a significant impact on people’s lives and on communities in the areas where these circumstances are currently causing problems, and will continue to do so unless action is taken. I hope the Government will look at that matter as well.

6.30 pm

Lord Horam (Con): I am very sympathetic to the views put forward by the noble Lord, Lord Kerslake, in moving his amendment. All noble Lords are aware of the acute difficulties in rented accommodation and housing to buy, particularly in London but also elsewhere.

[LORD HORAM]

I am delighted by the dynamism which the Government are trying to inject into this area. This is, perhaps, not the occasion to look at the full dimension of housing policy because we are considering only one aspect of it in relation to the proposed amendments. None the less, there is a bigger picture which should be taken into account. The noble Lord, Lord Kerslake, made the point that the Bill contains a very abrupt reversal of the position under the coalition Government when there was a 10-year guarantee of the 1% a year increase in rents. Frankly, it was rather foolish for any Government to give a guarantee of that kind. By their nature, these things are very hard to sustain through different economic circumstances. I genuinely wish it could have been carried on, because it was helpful to have that length of forward planning time. In the past, I have been a critic of the failure of Governments—Conservative and Labour and the previous coalition one—to plan ahead on investment. As a devout Keynesian, this is something on which I have been critical of my own Chancellor of the Exchequer in the past. There needs to be one view about current spending and one about capital spending: the two are not necessarily the same thing at the same time.

I understand all that very well, but the reality is that all Governments, of any political complexion, have to take the bigger picture into account. That picture is that the Government are still spending substantially more than they are raising in taxation. At the moment, the figure is approximately £70 billion a year. Let us not forget that under the previous Labour Government this huge deficit was £150 billion at its maximum. This was brought down only by half during the coalition period and the Chancellor of the Exchequer now hopes to bring it down and eliminate it during the course of this Parliament. I am sceptical about whether he will achieve that. As all noble Lords are aware, the economic recovery in this country is rather fragile. At the moment it is in the order of 2% a year and although it would be very good if we manage to achieve that year after year, I am not sure that we will. The winds of economic force around the world are looking difficult. I have for long felt that China was heading for real problems and now it really has them. Its growth has come down to something like 6% from 9% or 10% the previous year. Other countries have massive deficit problems. China has a deficit of over £250 billion: 250% of its GDP as opposed to our 8% of GDP. Japan's deficit is over 200%; Brazil's is huge. There is almost a tsunami of debt around the world. This is extremely important in terms of our economic performance and no Government could ignore it. To ask this particular sector to make a contribution—of £12 billion as the noble Lord, Lord Best, pointed out—is responsible. To use a phrase much used by the former Chancellor, Gordon Brown, it is prudent in these circumstances. That is the reality which a Government have to face, so I am not surprised that they have reversed this particular housing policy and gone to a managed 1% over the next four years.

Not to beat about the bush, it is a difficult economic situation. I am not as pessimistic as the noble Lord, Lord Kerslake, and others, or the Office of Budget Responsibility, which talks about 43,000 fewer houses.

Indeed, I am rather sceptical about these forecasts as well. I note that the housing association movement, which has entered into a voluntary agreement with the Government, is not itself as pessimistic as that. As the noble Lord, Lord Kerslake, mentioned, there are quite a lot of possibilities for greater efficiency within the movement. I have had talks with housing associations; I was once the chairman of a housing association; I know something about this area. There is certainly a greater possibility of them reacting by improving their efficiency, by mergers, by some of the larger associations taking over some of the smaller ones. All that is possible and it is necessary if we are to make progress.

The way out of the acute economic dilemma which this country and the world face is greater productivity. That is what it is lacking. You get greater productivity by pressing down on costs and achieving greater efficiency. That is what the Government are hoping that the housing association movement and individual housing associations will do. Given what I know about housing associations, and what they are saying to me, I am not pessimistic: they can achieve that. I do not think they believe that there will be the dramatic reduction in the number of houses they produce to rent or buy which the Office of Budget Responsibility has forecast, and they are right not to. We should not be so pessimistic about the effect on housing associations. I hope they can increase their contribution because we need that if we are to meet the ambitious targets which the Government are now setting. Realistically, we have to take all that into account.

I agree with the noble Lord, Lord Kerslake, on the question of exemptions. If you are taking a tough line, as the Government are, on the 1% reduction in rents year by year, you can afford to put in certain exemptions for disabled facilities and other kinds of supported accommodation. This will be discussed when we come to Amendment 109, but it is not enough to give guarantees of a certain kind. This comes back to the question of the certainty you should be able to create for housing associations to plan ahead. It is much better to have something in the Bill, in clear black and white, which they can plan on, rather than some possibility that the Government may waive the situation and decide that, in the eventuality, a certain scheme may pass their test and not be subject to the Bill. It is much better to have something concrete on which a housing association can possibly plan.

I am, therefore, sympathetic to the exemptions talked about by the noble Lord, Lord Kerslake, and other noble Lords. I hope the Government will listen to that argument carefully. If they do, they will show their real intention of being as fair-minded and sympathetic to these real problems as they possibly can. The general attempt to roll back the clear policy on handling private rents is a mistake in the wider context of the economic situation that we face. This area has to make a contribution to our economic success. It ought to be able to do this by increased efficiency and productivity and I very much hope that it will.

Lord Scriven (LD): My Lords, I support a lot of what the noble Lord, Lord Kerslake, said. The noble Lord and I do not always have a history of supporting each other. He was the chief executive of

Sheffield City Council when I was leader of the opposition there. We both know the sparring match well. Since the noble Lord has come into this House, I have listened to him on many issues and on housing in particular. He speaks both sense and practicality on the difficult situation which the Government have got into: seeing social housebuilding as a way of dealing with a welfare bill. The actual consequences of reducing the rent will be that while it may meet the objective of dealing with the welfare bill, it will not deal with the acute shortage of social housing across this country. That is probably the biggest social issue facing families and individuals in this country at the moment.

I jumped up after the noble Lord, Lord Horam, because I wanted to say that I am not sure whether he listened to what the noble Lord, Lord Kerslake, was saying about the bigger picture. Regarding his amendments, particularly Amendment 104D, the noble Lord, Lord Kerslake, was clear. He did not ask for the policy to be totally thrown out but referred to a specific issue: that when the deficit had gone and we were back in balance in 2020, the position that the Government have got themselves into about a reduction of 1% should stop. He said clearly that once the Government had got back into the black, it made no sense whatever to continue with the 1% reduction. So the amendment of the noble Lord, Lord Kerslake, took the wider position.

There is a clear question to the Minister. Is this policy being driven by dogma or by practicality? If it is being driven by practicality on the biggest social policy issue facing the country then, as the noble Lord, Lord Kerslake, said, there is no justification for keeping the 1% reduction after the deficit has been eliminated. There would be wisdom in knowing from the Minister why the 1% reduction would be needed once the deficit had gone, according to the Government's own predictions. What logical reason would there need to be that would not contribute to dealing with the country's biggest social problem, which is affordable housing?

The second issue which made me want to jump up straightaway was to do with pessimism and the predictions that the noble Lord, Lord Kerslake, and others have made regarding the effect on the number of social houses built. Again, the noble Lord, Lord Horam, said that he did not believe that such a difficult situation would be the case, and that he had more faith in housing associations dealing with it through efficiencies and other things. I have great faith in many in the public sector, and in housing associations, when dealing with efficiencies. They have been doing that for a period of time but the scale of these reductions will not be dealt with purely through efficiencies. At the end of last year, the chief executive of the Genesis Housing Association was already saying that it will stop building social housing. Chief executives of housing associations are already stating that, and that they will be able to build only houses at market rent. The predictions are not vague; housing associations are already stopping what part of their core purpose was, as their chief executives are making clear.

The third point that I wish to raise is also in support of the noble Lord, Lord Kerslake. I come back to Amendment 104E and the issue regarding the

Government giving a clear commitment today that, after 1 April 2020, providers will be able to increase rents by CPI plus 1% each year. Can the Government give the commitment that housing associations will be able to do that? If they do not, again, one has to ask the question: is this being driven by practicality or dogma? I know the Minister well and I am sure that she would not want to be seen as dogmatic. She will want to be practical on these issues and she can give a clear indication to the House. The noble Lord, Lord Kerslake, is looking for not a head-on clash but a practical solution to a very serious problem. I hope that the Minister can give an assurance to the House, through accepting and supporting the noble Lord's amendments, that there is some light at the end of the tunnel and not a purely dogmatic approach to dealing with both welfare cost and social housing.

6.45 pm

Baroness Blackstone (Lab): My Lords, in speaking briefly to these amendments I declare an interest as the chair of the board of the Orbit housing association group. I want to pick up on something that the noble Lord, Lord Horam, said. Everybody involved in the world of housing associations is acutely aware of the need to be efficient and get good value for money. I certainly am and I am sure that the noble Lord, Lord Kerslake, and others in the House who are involved in them are. A four or five-year reduction in rent is just not the best way of securing such efficiencies. It really is taking a sledgehammer at something and, as the noble Lord, Lord Kerslake, said, the right way to do this is through good internal management and effective and good external regulation.

The intervention in the housing market to legislate for rent reductions in housing associations and local authority properties is not the kind of intervention that you would normally associate with a Conservative Government. I was brought up to believe that Conservatives and the Governments who represented them believed passionately in the working of the market. Moreover, the kind of direction from the centre that this would entail sits very awkwardly with the Government's claim that they are in favour of greater devolution to the regions and to local government. It is the reverse of that. It is also entirely inconsistent with their avowed aim to increase housebuilding. As the noble Lord, Lord Scriven, has already indicated, we are not going to alleviate the crisis in the supply of housing, especially for first-time buyers and those in desperate need of social housing for rent, with this sort of approach.

On the one hand, the Government want to reduce rents to cut the amount being shelled out on housing benefit; on the other, they want more houses to be built by housing associations and, I believe, by local authorities. If they want the second of those objectives to be achieved, they really should not introduce policies which greatly undermine that goal. We have already heard that it is estimated that the 1% rent reduction over the next four years will lead to a loss of £3.85 billion in rental income for housing associations. The noble Lord, Lord Scriven, has already cited examples of chief executives in the sector saying that in these

[BARONESS BLACKSTONE]

circumstances they cannot go on with their housebuilding programmes, which ought to be focused on social housing. Put another way, as the noble Lord, Lord Kerslake, said, it will result in a 12% reduction in average rents by 2021, compared to today's forecasts. Perhaps the Minister could be really honest with us and tell us what effect she thinks this will have on housing association housebuilding. Please do tell us that clearly.

The cost to local authorities is estimated to be £2.6 billion by 2019. This amounts to what it would cost to build 19,000 new homes over the four-year period. Unless local authorities and housing associations are able to make a substantial contribution to the Government's extremely ambitious targets for new houses between now and the next election, which I and many other Members of this House of course welcome, those targets are highly unlikely to be reached. Again, I would like to hear the Government's view on the effect of this legislation on their housing targets. They are trying to do one thing with one hand, as the noble Lord, Lord Scriven, said, and something quite different with another—and the two do not come together very well.

I do not want to repeat what other speakers have said on these amendments. But I strongly support what all speakers, particularly the noble Lords, Lord Kerslake and Lord Best, and my noble friend Lord Beecham, have said about particular kinds of housing associations having great problems with what is proposed here. For those reasons, I strongly support the amendments in this group, all of which seem to me to propose wholly reasonable adjustments, which the Government ought to be able to make without too much difficulty. I hope to hear a positive response from the Minister when she replies.

Lord Triesman (Lab): My Lords, I also declare an interest, which is on the register, as a director of a housing association. I share the point that the noble Lord, Lord Scriven, made very eloquently: if you had to categorise the most gripping social problems that we face, among them would be the problems of people either not having any kind of decent housing or being shifted routinely from one low-cost house to another, and all the things that we know are correlated with that, such as worse health, worse educational prospects for the children and less likelihood of families staying together and of intergenerational relationships being sustained. It is a critical problem.

The noble Lord, Lord Horam, tried to say how we can balance the competing issues around this. I make the point to him that it is critical—it has become ever more critical—to understand what the sources of finance are likely to be for building new, affordable and social homes. Not all housing associations are the same. There are some very big ones which have been capable of launching own-name bonds and have done reasonably well in attracting new capital into their building programmes. There is a very much bigger group in the middle—perhaps the overwhelming majority of which would, I am quite sure, be categorised as efficient and among which there has certainly never been a default—which cannot launch an own-name bond as it is not financially within the scope of what they are capable

of doing. Then there are very many smaller ones which come under the sorts of pressures that the noble Lord, Lord Best, and others have described.

The middle group is by far and away the biggest of the groups and the one which is most challenged in finding sources of relatively inexpensive capital to build new buildings. We all know that the shortage of such buildings is enormous and the task for those housing associations is therefore profound. The empirical evidence is very clear that most of them have run out of any real capability to raise additional funds from the banking sector, not least because the banks have gone through a period of considerable turmoil in their lending and the amount of risk that they are prepared to take, because they are subject to Basel III and other ratio-controlling mechanisms when it comes to what they will or will not lend. I know that housing associations in that middle group which go back to their bank often find that the bank, rather than wanting to talk about new investment, wants to renegotiate the terms of the debt relating to past investment. It is a fundamental disincentive.

One thing that has interested me most of all in the last couple of years of close involvement with a housing association is where the money for new building will come from. It frequently comes from what, rather like my noble friend Lady Blackstone, I had always thought was within the domain of Conservative policy up to the hilt. They look for areas of potential private investment, but the private investment in this sphere and segment is very particular. It has to be long term, because none of these are short-term projects, and it will inevitably be at very low rates of return. In short, it is a classic annuity investment. Classic annuity investments appeal to particular kinds of investors. We have found, for example, that the people who understand the need in this country most readily and are prepared to make investments of this kind are the Scandinavian pension schemes. It has been those people who think in the very long term and about low rates of return, because their aim is to provide a sustainable, long-term but pretty marginal annuity income. That is one of the most limited spheres for raising money for new buildings that you can think of, but it is now becoming increasingly vital. Unless they can plan over a period of time what the return will be, what I have described as a very small return becomes no return and they cease to invest. Of course the CEOs and others in housing associations then say they are not going to build, because the last door has been closed.

I hope noble Lords opposite will forgive me for taking such a directly capitalist approach, but I do. I am an entrepreneur. I look at these things and try to work out how it is you can potentially fund things that are socially vital. I ask the Government to think again—perhaps by saying the four years is four years and there is no excuse for going beyond it—about whether they really want to build these homes and whether they will produce the conditions in private market circumstances which will overcome the barriers. There is a very straightforward yes or no answer to that. If the Government want to overcome them, they should not impose something which makes it impossible for investors to fill the gaps that the banks have now left.

Baroness Hollis of Heigham (Lab): My Lords, I want to raise a slightly wider point, as I see the 1% rent cut as the most recent of the attacks on social rented housing. What has triggered my comments is that the Prime Minister announced at the weekend that he wishes to bulldoze sink estates of 1960s tower blocks, where families and the employed had moved out to be replaced—in his words—by “gangs” and “ghettoes”. If that bulldozing is what local communities want, I would cheer him on. Low-rise and higher density housing is what most of us prefer—providing, of course, it remains available for social renting and is not part of social cleansing.

However, anybody who is familiar with the welfare housing of American cities, as I know many of your Lordships are, will begin to recognise his picture. US welfare housing is stigmatised, poorly built and poorly maintained, and if you get a proper job you are required to move on and out. People are therefore locked for life into unsafe streets and unsafe homes. The UK has had a very different history with social housing, ever since it built “homes fit for heroes” after the First World War. Even now, in Norwich, people put carpeting down on public stairways in social housing and carve out flower borders around the base of their flats. In those estates, you do not have a problem with arrears, graffiti or policing. We built some of the best social housing in Europe, which gradually broke the link between poverty and poor life chances in housing. We stayed together, supported each other and policed each other, and that generational stability produced what Nye Bevan called,

“the living tapestry of a mixed community”.

All noble Lords in the Chamber this evening know what makes social housing work, despite the Prime Minister’s comments this weekend. Yes, it is physically decent homes at affordable rents, but also steady jobs, because as Octavia Hill said a century or more ago, you cannot live regular lives on irregular earnings. You want decent homes, decent jobs and stable communities with low turnover. You also need competent management, chasing arrears, responding to the need for repairs and stamping out anti-social behaviour. None of this is rocket science. If that is what the Prime Minister wants, I will cheer him on. However, in my view, his policies are destroying, slice by slice, everything that he says he wants.

What is the point in rehabbing homes if at the same time you undermine the lives of those who live in them? Sink estates are caused by not just the physical fabric but, above all, the social fabric. To that, the Government’s housing policies, including this one, are doing irreparable damage.

7 pm

We know what the effect of RTBing council housing has been in local authorities. In my city, it took out 10,000 of 25,000 homes—the best homes. Most of those sold are now buy to lets, in transient tenure to students or private rented sector tenants, in poor repair with overgrown gardens and costing triple the housing benefit, which we all pay for. Anyone canvassing, as most of us do, can pick out the houses that were right to buy, because they are now the semi-neglected

or semi-derelict properties. No one wants to live next door to them. The result has been severe damage to stable communities which policed each other.

The Government are now extending that—on a voluntary basis—to housing associations, and will spend billions, which could have been invested in new housing, on just changing the tenure label and ensuring that as they, in turn, are sold off to the private rented sector, as they will be, we face another generation of sink houses.

We have had the bedroom tax, a terrible legacy of the coalition Government, imposed despite Britain already having lower space standards than anywhere else in Europe. The bedroom tax either makes rents increasingly unaffordable for those who stay or destabilises communities for those who manage to move. Next, we are going to get limited-term tenancies, so that social housing is treated as a transient, temporary tenure when for most tenants—two-thirds of them are on housing benefit—it is the only possible tenure apart from expensive, substandard and very insecure private rented sector housing.

Now add to that pay to stay: a couple each earning the new national living wage of £15,000 a year—not exactly riches—will find their social rent doubled or trebled to market rents. Even if they wish to, they could not afford to become owner-occupiers. What will happen? They will of course reduce or conceal their income, or their new rent may make them suddenly re-eligible for housing benefit, at a cost to us all. It is deeply perverse. These are the very people working hard who want to stay and who steady social housing communities, who stop them becoming the sink estates that the Prime Minister is concerned about. They are exactly the people we need, but they are the ones who will leave, re-establishing transient communities for so many people who are in need.

Finally in the Bill, we have the 1% cut in social rents, a straight betrayal of the commitments given by the Government just a year or so ago which, as the noble Lord, Lord Kerslake, and others said, will permanently lower the baseline of local authorities’ and housing associations’ rental income. That means reduced maintenance and more risk of sink estates, which the Prime Minister deplores, or reduced support for tenants at risk who need supported housing, as well as reduced resources for new build. It is not as though tenants will benefit: three-quarters of this will go straight through to HMRC without affecting tenants’ rent payments.

If the Government, the Prime Minister, DCLG or DWP were even faintly serious about tackling the physical dimensions of sink estates, cutting local authority and housing association rental incomes would be the very last thing they would do. The Prime Minister says that the Government will spend £140 million to rectify mistakes which, in their other policies, they are building in to our current social housing.

I hope the Government will support the amendments, because I worry that if we do not stop this skid, this slide into the welfare housing of the USA, sink estates will not be relegated to tower blocks, they will undermine and eat into the social fabric of our social housing across this country.

Lord Elton (Con): My Lords, I have a fraction of the knowledge and experience in this field of the noble Baroness, and I am tempted from my seat only by her final remarks and those she made early on. I remind her that this is not the United States and, on the whole, we behave differently here. My experience of right to buy, which is a little greater than my experience in the rest of this field, is that when it started, you could tell which were the right-to-buy houses by the brightly painted doors, the clean net curtains, window boxes and the flowers. Going round the same estates, I now observe that the same doors are brightly painted, with clean net curtains and window boxes with flowers. The whole picture is not as gloomy as the noble Baroness suggested. I make no comment on the rest of her speech, but that makes me listen to it with a little more doubt.

Baroness Hollis of Heigham: My Lords, to respond to the noble Lord, the latest estimate is that 60% or more of property sold under RTB is now in the private rented sector, it is no longer occupied by the people who bought it.

Lord McKenzie of Luton: My Lords, this debate focusing on six specific amendments has become quite broad and—dare I say it?—welcome. The noble Lord, Lord Kerslake, kicked us off by reminding us of the background to the policy—in particular, pointing out that it is a complete reversal of CPI plus 1%, with its 10-year guarantee, which was introduced only a year ago. The noble Lord, Lord Horam, made the point that Governments may be foolish to offer 10-year guarantees, but one would hope that, whatever the term of the guarantee the Government gave, it would be met, and certainly not broken after just one year.

The noble Lord, Lord Kerslake, reminded us of what the policy as now constituted will actually deliver. Rents will be 12% lower and £2.3 billion per year will be lost to housing associations and local councils by 2020. Given the current structure of housing benefit, we are effectively talking about almost a straight transfer of resources from social landlords to the Exchequer. There is also the prospect of having 43,000 fewer social rented homes by the end of the period. The noble Lord emphasised the importance of certainty for the financing of housing provision.

I will come to the specific amendments on co-operatives in a moment, but the noble Lord, Lord Best, said that there are only three options for housing associations: cut programmes, cut the revenue costs which add value to housing association tenants or reduce surpluses. The Government have got themselves in a bit of a jam by believing that just because authorities and housing associations have reserves, that is free money. That reserve is there to support other activities and the current borrowing of housing associations and authorities. My noble friend Lord Beecham told us about the practical impact of the policies on his authority, and also supported the amendment of the noble Lord, Lord Ramsbotham, on almshouses, which I will come to.

The noble Lord, Lord Horam, reminded us that we have to deal with the deficit. Of course we do, but why do we always choose to do so off the back of the most disadvantaged in our society? Why that route?

The noble Lord, Lord Scriven, made the challenging point: is this dogma or is it practicalities that we are getting from the Government? My noble friend Lady Blackstone asked whether the Government would be honest and tell us what they think the effect of the policy will be. We ought to hear the Government's view on what this will mean for housing provision over the upcoming period.

We had a fascinating lesson from my noble friend Lord Triesman on long-term annuity financing, which is very long-term with small margins, so changes in revenue streams could easily tip it into not being available.

My noble friend Lady Hollis challenged the PM's view on bulldozing sink estates and made the point that to make social housing work requires decent homes, decent jobs, stable communities and decent management, and I agree with all that.

Amendments 104C and 104D, tabled by the noble Lord, Lord Kerslake, have the effect of reducing to three years the period of the rent reduction. That would coincide with when the Government tell us that the deficit will be dealt with, but that remains to be seen. From 1 April 2019, or the equivalent date where the relevant years are determined by Clause 21(6)(a), the rent reduction provisions will not operate. Amendment 104E requires that registered providers increase rents by CPI plus 1% from April 2020 and also requires there to be a review of the formula rent arrangements to see whether there are prospects of higher increases or greater flexibility.

We support the need to have as much certainty as possible for the future so that registered providers can develop long-term plans, although we understand that the Government may be coy about supporting anything beyond April 2020. It is presumed that the noble Lord's amendments would apply to those tenancies to which the rent standard currently applies and not more generally. We also support the requirement for a review of the impact of Clause 21 to see what flexibility might be required to address its consequences.

I think that the way the Bill would operate at the moment is that if there is silence on the year 2020 before we come to the new arrangements, the regulator's ability to set the rent under the rent standard would come back into play because it is negated by Clause 27 only for when the rent reduction proposals are under way. That would deal with the year between CPI plus 1% for 2020 onwards.

Overall, the effect of the noble Lord's Amendments 104C, 104D and 104E would appear to be that the base for future rent increases would be higher than the Bill currently provides. The loss of income to councils and housing associations would be ameliorated and the shortfall in the provision of new accommodation would be reduced, to the benefit of those in housing need and to the benefit of the public purse, which would otherwise be bearing the strain. Other things being equal, the housing benefit bill would be higher in the short term than would otherwise be the case, as would the cost to those tenants who meet all or part of their rental costs. Overwhelmingly, the focus should be on getting back on track as soon as possible the investment programme under way as

part of the 10-year settlement, which is what the noble Lord's amendments seem to achieve: therefore, we are happy to support them.

Amendment 108, tabled by the noble Lord, Lord Best, focuses on fully mutual housing co-operatives. Amendment 108A, tabled by the noble Lord, Lord Kerslake, focuses on accommodation which is excepted from the right to buy because of specific adaptations for disabled or elderly people. Amendment 109A, tabled by the noble Lord, Lord Ramsbotham, which covers almshouse charities, was spoken to by my noble friend Lord Beecham. These amendments should be supported.

The case on mutual housing co-operatives has been fully articulated, as one would expect, by the noble Lord, Lord Best. We heard in particular from the Edward Henry House Co-operative in Waterloo. It argues that the financial model for housing co-operatives is different from that of housing associations. They do not keep large reserves. The reserves are kept low because of the member-tenant role in running the co-op. The prospects for driving efficiencies is therefore limited. These co-operatives should clearly be an exception to the policy, as should community land trusts, which are a very small section of the sector.

It is understood that the exemption from the right to buy for adapted properties is not widely drawn. Is it the case that it would not apply to one-off adaptations and requires properties to form part of a development of similar homes and to have some sort of social service or extra care provided on site or nearby for them to be subject to the right-to-buy exclusion? If this is the case, such properties would appear to fall within the definition of supported specialised accommodation, which is the subject of a separate exemption which we are going to debate shortly. The Minister may care to comment on that. This begs the question of whether the right-to-buy exemption should be widened at all—but perhaps this is an issue for another piece of legislation.

The financial structure of almshouses is different again. Residents pay a weekly maintenance contribution, rather than rent, which is less than a commercial rate. The exception the noble Lord, Lord Ramsbotham, seeks is entirely justified, and it is presumed that any impact on savings would be negligible.

We are confronted with six amendments, each of which should be supported. We have had a very robust debate around the thrust of this policy, the problems it creates and the challenges it will create in providing decent housing for people who have no option but to rent.

7.15 pm

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, I thank all noble Lords who have spoken to these amendments. I have listened with care to the comments made and thought it might benefit the Committee if I quickly set out some general comments with regard to the purpose of the 1% rent reduction.

As my noble friend set out at Second Reading, this Bill, including these measures, is part of a broader package of reforms, one of the aims of which is to put spending on welfare on a more sustainable footing, but in a way that protects the most vulnerable. I hope

that answers the point made by the noble Lord, Lord Scriven, and other noble Lords who asked the same question. The housing benefit bill for the social housing sector in England has risen by nearly a quarter over the past 10 years to £13 billion, and rising rents are a key part of the equation. Average rent increases in the social sector have been more than double those in the private sector over the past five years. That is why the Government have taken the decision to reduce social rents by 1% a year for four years from 2016. That will mean that by 2020 tenants will be paying around £12 per week less than they would pay under the current policy of CPI plus 1% increases.

I listened carefully to the points made by the noble Lord, Lord Kerslake, regarding Amendments 104C and 104D. The noble Lord brings a great deal of knowledge of these issues to this House—I had not realised he had been chief executive of Sheffield—but we cannot accept these amendments, which would reduce the number of years of the rent reduction from four years to three. The noble Lord asked why we have gone back on the 10-year rent settlement of CPI plus 1%. This measure is crucial to the Government's drive to secure housing benefit savings in order to control the welfare bill. Moreover, it will reset levels of social rents, which have got out of kilter with the private rented sector over the past few years. Around 60% of social tenants receive housing benefit, and the housing benefit bill for England in the social sector stands at £13 billion, and has risen by a quarter over the past 10 years. Social rents have risen by around 60% over that period. The average weekly rent for housing associations has gone up from £58 a week to £92 a week over the past 10 years. In contrast, in the private rented sector, it is 23%. We recognise that social housing providers will have to manage these reductions, but the Government are committed to reducing welfare spending, and everyone has a part to play. Moreover, we are confident that social housing providers will be able to adapt.

The noble Lord, Lord Beecham, asks why, if we are doing this in the social sector, we cannot do it in the private sector. We believe it is important to allow market rents in the private rented sector so that we have a diverse supply of private rental accommodation available for a variety of different needs. A fundamental move away from market rents would hold investment back when we most need to encourage it, and the resulting shortage of rented accommodation would help neither tenants nor landlords.

We also cannot accept Amendment 104E, tabled by the noble Lord, Lord Kerslake. It would require registered providers to increase rents by CPI plus 1% each year. The amendment also seeks to require the Secretary of State to review whether, given the impact of the rent reduction measure, there should be additional flexibility for registered providers to increase rents above the noble Lord's proposal for an increase of CPI plus 1%. This is an important point that also goes to the question from the noble Lord, Lord Scriven: the Government will determine rent policy after 2020 at a future fiscal event. When taking future rent policy decisions, the Secretary of State will have to consider a range of issues, and it would not be right to prejudge now what those issues might be.

[BARONESS WILLIAMS OF TRAFFORD]

The noble Lords, Lord Kerslake and Lord Best, talked about the OBR predictions of 43% fewer properties being built by providers. The Government believe that providers will make efficiencies to continue to release resources for new development. I remind noble Lords at this point that housing associations hold £2.4 billion in surpluses, which is a very similar amount to local authorities. In the spending review we secured over £20 billion for housebuilding over this Parliament, including £8 billion for 400,000 new affordable homes over the next five years, so the Government are playing our part in the provision of housing.

Lord McKenzie of Luton: How much of that £20 billion is going to be applied for social housing for rent?

Baroness Williams of Trafford: That will be £1.6 billion.

Baroness Hollis of Heigham: Of £20 billion?

Baroness Williams of Trafford: It will be £1.6 billion to provide 100,000 homes for rent.

Baroness Hollis of Heigham: So the Minister is saying that £20 billion is set aside for affordable housing, but only £1.6 billion of that £20 billion will be available for social housing to rent. Am I right?

Baroness Williams of Trafford: The £20 billion will be invested in housebuilding over this spending review, and £1.6 billion of that will be invested for 100,000 homes for rent.

The noble Lord, Lord Kerslake, makes the point that not many people pay their own rent. In fact, out of the 4 million households in the social sector, one-third actually pay their own rent, and the noble Baroness, Lady Hollis, alluded to that.

Amendments 108, 108A and 109A seek to place some exceptions in the Bill. Perhaps I can offer some reassurances in this area. The Government have made clear our intention to look to continue to accept those types of housing that are currently exempted from the rent standard, subject to determining whether the existing definitions are appropriate in the light of the revised policy. These include specialised supported housing, which provides support for the most vulnerable people and was developed in partnership with councils or the health service. We will bring forward regulations to set out these and any further exceptions needed under Clause 22.

I recognise that many noble Lords are keen to see further categories of housing or provider excepted. Noble Lords, including the noble Lord, Lord Beecham, in the absence of the noble Lord, Lord Ramsbotham, have spoken to amendments that would accept fully mutual housing co-operatives, homes for the elderly or disabled and almshouses. We are equally keen to understand noble Lords' concerns and are keeping these matters under review. Nevertheless, the Government believe that most providers can find operational efficiencies to manage these reforms, and it is simply not appropriate to except large swathes of housing from the provisions to deal with a few hard cases.

We are also investing in specialised housing for older people, and in the spending review we have committed £400 million of funding to deliver 8,000 specialist homes for the vulnerable, the elderly and those with disabilities through the affordable homes programme, with a commitment to further funding from the Department of Health for specialist accommodation. We will continue to support local areas to meet their local needs by maximising funding flexibility.

I remind noble Lords that while the Government expect providers to make all possible efforts to manage the rent reductions and to plan on that basis, Clause 23 of the Bill allows for individual providers to apply for an exemption from the rent reductions if they face severe financial difficulties. Many noble Lords have alluded to that point. We do not expect providers to budget on the basis that an exemption will be automatically granted; as I said, they should be able to make all possible efforts to manage the reductions.

Baroness Hollis of Heigham: Will the Minister agree to the circulation before Report to all Members of your Lordships' House of a list of the categories of social housing that are regarded by the Government as potentially exempt from the 1% cuts in rent, so that we know before Report exactly who will be affected and who will not?

Baroness Williams of Trafford: My Lords, I am afraid that I cannot give that level of comfort to the noble Baroness. As I say, we are very carefully keeping this under review, but I cannot commit to giving her that list before Report.

Baroness Hollis of Heigham: I—

Baroness Williams of Trafford: If I may finish, all I can say is that we take very seriously housing providers that might suffer financial difficulties because of the reductions. In those cases they will be able, under Clause 23, to apply for an exemption.

Baroness Hollis of Heigham: So what the Minister is saying is that the Government will come in after the event, when providers are already on their knees and some of them might be going under, as opposed to letting us know which categories may be exempt by virtue of their particular needs. These providers are offering supported housing, which has not only high physical building costs but high social costs in terms of supporting tenants.

Baroness Williams of Trafford: My Lords, exemptions will apply to providers that demonstrate to the Government that they will face financial difficulties because of the reductions. I cannot prescribe from the Dispatch Box who those providers will be; it is for them to come forward to the Government. However, in the main we will expect providers to be able to cope with the reductions.

Baroness Manzoor (LD): My apologies; my throat is not very good, so I hope that noble Lords can hear me. What is the Government's view of the organisations

that are currently supported and are exempt from these specifications but will not be covered by universal credit?

Baroness Williams of Trafford: My Lords, there are several different types of accommodation. There is supported housing, which is a general term for housing that supports vulnerable people and covers a huge number in this sector. There is accessible housing, which is adapted or modified housing, and specified accommodation, which is accommodation used for housing benefit purposes. So there are different types of accommodation but, in terms of an exemption, it is up to a provider to come forward to the Government and say why they might face financial difficulties because of the reductions.

Baroness Manzoor: Forgive me for having to get up again; after all, we are coming to this subject on Amendments 107 and 109 so we will debate it then. However, I think there needs to be greater clarification regarding exemptions. There are currently organisations that are very vulnerable and provide housing services for some of the most vulnerable in our society to prevent people from becoming homeless, as well as those that provide refuge for domestic violence victims and so forth. I will not pre-empt the discussion that we will inevitably have, but I am looking for some reassurance from the Minister regarding whether these exemptions will continue to apply to those organisations that currently seem to be exempted. These rent reductions will have an impact because the providers will not be able to continue to provide those services, particularly to help and manage those kinds of conditions.

Lord McKenzie of Luton: Might the noble Baroness take the opportunity to clarify the distinction between exceptions and exemptions? I think she has been talking about exemptions today—exceptions are something else.

7.30 pm

Baroness Williams of Trafford: The noble Lord has just read my mind. Doing so might be helpful because I think that we are now talking at cross purposes. An exemption relates to a provider, which is why I could not give the noble Baroness an assurance, because I do not know what providers might struggle because of rent reductions, whereas an exception relates to a sector, such as one that might provide for domestic refuges. Therefore an exemption is quite different from an exception, and I think we might have been talking a bit at cross purposes. I almost lost my train of thought there. However, I hope that with those reassurances, the noble Lord will feel—

Lord Beecham: Before the noble Baroness sits down, she referred to the private rented sector and implied that it was not as important as it would appear to be. However, has not the proportion of houses now in the private rented sector approximately doubled in the last few years, so that it now makes up 20% of total housing stock? How does that equate to her apparent fears for the viability of the sector if, for example, the Government take equivalent action with the rents they charge?

Baroness Williams of Trafford: My Lords, I think I explained that the Government do not intend to take action on the private rented sector. In fact, the private rented sector being in a healthy position in terms of supply can only be good for the housing market. With those comments, will the noble Lord feel sufficiently reassured to withdraw his amendment?

Lord Kerslake: My Lords, first, I thank the Minister for her comprehensive response. I also thank my noble friend Lord Best, the noble Lords, Lord Beecham, Lord Horam and Lord Scriven, the noble Baroness, Lady Blackstone, the noble Lord, Lord Triesman, the noble Baroness, Lady Hollis, and the noble Lord, Lord McKenzie of Luton, for their helpful and supportive comments on the issues I raised in these amendments.

I will make a few points in response to the Minister. First, I was very clear in my presentation of the amendments that I recognised that government had determined the big picture of policy, and that we were therefore talking about appropriate amendments here. On that point the noble Lord, Lord Scriven, is correct. I have sought to set out a number of practical and realistic amendments that the Government could consider.

On social rents, it is worth saying that, yes, they have risen above inflation, but that has been a direct consequence of intended government policy to raise social rents. They have not gone up because of some wilful act by housing associations or local authorities; precisely because it is a controlled area, it comes from government policy. Previous Governments of different political persuasions have acknowledged the need to raise rents so that they are closer to market rents. Indeed, the affordable housing product introduced by the last Government was up to 80% of market rent. Therefore, there has been a clear consensus policy by Governments to raise social rents, and that is why they are as they are.

My second point is that in respect of new housing supply in the social sector, there is what is often called the three-legged stool: a combination of private borrowing, rents and government grant. Each of those needs to be clearly calibrated to deliver the best possible results. As the noble Lord, Lord Triesman, says, confidence about long-term returns is absolutely critical to this. That is how you get cheap private finance into the system. That is why I felt that the 10-year policy was an enlightened and sensible one that would encourage the development of new infrastructure. Because of the compelling demands of the welfare reform savings that the Government need to make, they have chosen to depart from that policy. The key question is, how do we get that confidence and certainty back into the system so that we can maintain the maximum level of supply? I have to tell noble Lords that there is clearly uncertainty in the sector about what will happen at the end of the four-year period; it needs to be addressed in a very clear way, and that cannot wait until 2020.

I am very reassured by the Minister that the exceptions, as we must now call them, will be considered sympathetically. It would perhaps help if it could be made clear how many of the exceptions we have proposed through the amendments will be covered by what the Government intend. I moved an amendment on housing specifically constructed for disabled and

[LORD KERSLAKE]

elderly needs. That is a crucial area, and we must keep the level of supply going. My noble friend Lord Best has identified other areas where this is critical.

Clearly, efficiencies can be made in housing associations. Anybody who suggests otherwise is being unrealistic. The key question is what you do with those efficiencies, and whether they are used to reinvest or to cover other government policies. We are left still with the question, raised by a number of noble Lords, of the balance between revenue savings and capital investment for the long term.

My last point concerns who benefits here. I was clear in my speech that two-thirds of tenants, not all of them, will benefit. The reality is that the bulk of the savings from this policy will benefit the Chancellor. That piece of arithmetic cannot be denied.

I welcome the debate we have had on some very important issues. I will withdraw my amendments in the light of the discussion and will return to some of the issues I have raised at a later stage.

Amendment 104C withdrawn.

Amendment 104D not moved.

Amendment 104DA

Moved by Baroness Williams of Trafford

104DA: Clause 21, page 20, line 39, at end insert—

“() For the purposes of subsection (6), a private registered provider’s practice as regards its tenancies is to be determined by reference to its practice as regards the tenancies of its social housing in the year ending with 31 March 2016 (and a private registered provider which has no tenancies of its social housing in that year is to be regarded as having no practice as regards its tenancies).”

Amendment 104DA agreed.

Amendment 104E not moved.

Amendment 105

Moved by Lord McKenzie of Luton

105: Clause 21, page 20, line 46, at end insert—

“() The Secretary of State must, within 12 months of this section coming into force, produce a plan to offset the impact of lower social rents on housing associations and local government.”

Lord McKenzie of Luton: My Lords, Amendment 105 stands in my name and that of my noble friend Lady Sherlock. We are pleased to note that it has the support of the noble Earl, Lord Listowel, and the noble Baroness, Lady Manzoor. The amendment calls for the Secretary of State to come forward with a plan to address the impact of lower social rents on housing associations and local authorities within 12 months of the rent reduction provisions coming into effect. It mirrors a debate which took place in Committee in the other place and follows on from much of what we have just debated.

The rent reductions amount to some £3.5 billion by 2020 for housing associations and are estimated by the Local Government Association to amount to some £2.6 billion for local authorities by that date. However, their impact will of course extend beyond 2020 because even if CPI plus 1% is restored after four years, it will

be applied to a lower base than would otherwise be the case. LGA figures show that the rental loss for local authorities is equivalent to 60% of the total housing maintenance budget each year or 19,000 new homes over four years. London Councils points to a loss of rental income for London of £800 million up to 2020, but also, the cumulative impact looking across the 30-year business plan, assuming rents at CPI plus 1% after 4 years, is £13.3 billion.

The Government recognise that these reductions will have an impact on the finances of housing associations and local authorities but effectively say—we have heard it again tonight—that these can be managed. This amendment seeks clarification of how the Government think this can be accomplished. Effectively, it restates the question posed by my noble friend Lady Blackstone. Various estimates have been made of the loss of rental accommodation which might ensue, and it is recognised that this will obviously be influenced by what exceptions and exemptions are to be made available. We will come on to these in following groups. The National Housing Federation estimates that 27,000 fewer homes will be built over the next four years, although the OBR has different figures.

The Government have cited a number of factors in support of their view that everything is going to be all right. These include the accumulated surpluses of housing associations and HRA reserves, the latter totalling some £2.2 billion. They also point to the prospect of higher rents arising from social tenants with a household income of £30,000 to £40,000, which the impact assessment suggests could produce, “hundreds of millions [of] pounds per year”.

Can the Minister give us a breakdown of this estimate, saying how much relates to London and how much to outside London, how many households are likely to be affected and what level of rent is expected to be levied and garnered from this process? Is it correct that the rent standard does not currently apply to rental accommodation where household income is £60,000 or more? Presumably this will have to be adjusted.

As for the reserves of local authorities and housing associations, the Government should be wary of making judgments by looking at the aggregate position. London Councils, for example, cites a loss of rental income of £800 million but reserves of stock-holding boroughs of only £700 million. There is an assumption that reserves can be used effectively without cost. What guidance, if any, is given to housing associations and local authorities generally about maintaining prudent reserves?

If the Secretary of State were to publish a document under Clause 23(12) about measures a local authority might take to avoid financial difficulties, what would his approach be in considering the running down of reserves? The impact assessment explains that the regulator is currently collecting information from large providers and requiring a revised financial forecast return reflecting updated policy announcements. Is this exercise complete and what is the outcome? The impact assessment also makes it clear that the Government are continuing to engage with the housing association sector and,

“remains confident that they will be able to find the necessary efficiencies to manage this change”.

Will the Minister please share with us what specific factors underpin this confidence? What is the Government's current assessment of the shortfall in social housing for rent which they consider will flow from the operation of Clause 21? In addition, what is the estimated impact on housing waiting lists?

We can exchange statistics about the housing performance of this Government and will doubtless hear, among other things, proposals to develop 275,000 affordable homes over the course of this Parliament. If we do, can we be clear on the definition of affordable housing being used, and how many homes will be available for rent? I beg to move.

The Earl of Listowel (CB): My Lords, I support the amendment. I am very concerned about the rise in child homelessness and the number of homeless families living in insecure accommodation. I am concerned at the possibility that these changes will reduce the supply of housing and contribute to further child homelessness. Will the Minister look at the possible impact on child homelessness of the reduction in rent over the next four years?

I welcome the extra investment, announced yesterday, that the Prime Minister has made in perinatal mental health care so that during and immediately after pregnancy mothers get support if they have mental health issues. I understand that he is doing that because it is increasingly recognised how crucial it is for children to have a good start in life. The noble Lord, Lord Horam, spoke earlier about productivity. I suggest to your Lordships that if we do not do everything possible to give children the best start in life, we will be shooting ourselves in the foot as regards productivity. We know that if they get a good start, they will do well in school and will probably also do well in employment. That is why I particularly support the amendment.

Living in insecure accommodation is also obviously very troubling for children as they may have to move from school to school and may be separated from their friends. I know that, like me, all your Lordships are very concerned about the increasing number of children who are homeless, and I look forward to the Minister's reply.

7.45 pm

Baroness Manzoor: I add my support for the amendment. I do not have much to add to what has already been said by the noble Lord, Lord McKenzie, and the noble Earl, Lord Listowel, except to say that it is a very simple amendment but a very important one. It simply says:

"The Secretary of State must, within 12 months of this section coming into force, produce a plan to offset the impact of lower social rents on housing associations and local government".

To my mind, that seems very practical, very reasonable and very fair. Surely the Government and the Minister would want to understand the impact of their policy and to have an option B. If they have an understanding of the potential impact of the reduction in social rents, the Government and others can mitigate it and put in place proposals to amend the measure. Therefore, from the perspective of these Benches, the amendment seems absolutely reasonable and sensible. If the Minister

did not accept it, we would not understand why, for all the reasons that have been articulated and which I shall not repeat.

When we come to Amendments 107 and 109 we will be looking at issues around homelessness and, in particular, at the impact on the generation of young people who will not get housing benefit. A policy of having an impact assessment will clearly go a long way towards at least gaining an understanding of the people who will be affected by the reduction in social rents, and I therefore wholeheartedly support the amendment.

Baroness Blackstone: My Lords, I did not get up again and ask the Minister for a reply to the question that I put at the end of the last group of amendments about the impact of the reductions in rent on the number of houses being built and on the Government's targets, but I shall do so now as it is extremely relevant to my noble friend's amendment.

When Governments introduce a policy of this sort—a rather unusual policy in some respects—it is right to then try to evaluate the impact and to monitor a change of this sort. It is simply a matter of good government. Therefore, I hope that, even if the Minister does not want to accept the precise wording of my noble friend's amendment, she will at least come back to us and say, "Yes, of course, this should be evaluated and monitored. We will do it". Above all, I would like an answer to my question about the Government's current position on the effects of the reduction in rent on the longer-term targets that they want to achieve for housebuilding by 2020.

Lord Horam: My Lords, the noble Baroness, Lady Blackstone, may be amazed to know that I rather agree with her that all government policy should be carefully monitored to see its economic and social effect. However, while I well understand the purpose of the amendment—I appreciate that it is well meant—12 months is frankly far too short a period in which to see what the effect of this quite dramatic change in policy will be. It would be much more sensible to wait for a period of two to three years before you could sensibly look at the exact effect, either social or economic, of these policies. I see that the noble Baroness is nodding. I do not think that this proposal will work because 12 months is simply too soon. It is no time at all in which to look at the way in which the measures unfold.

Lord McKenzie of Luton: Does the noble Lord accept that there is a distinction between trying to understand what the Government currently think the impact of their policy will be and evaluating within a certain period in the future how it is working out?

Lord Horam: I appreciate that. Clearly, we ought to know as much as we can now about the effect of the Government's policies as they are articulated in this Bill. None the less, a sensible monitoring process should allow a reasonable period of time for the whole thing to work through. I suggest that halfway through a Parliament is a much more sensible time than 12 months, frankly.

Baroness Williams of Trafford: My Lords, Amendment 105 seeks to require the Secretary of State to produce a plan within 12 months to offset the impacts of the rent reductions on housing associations and local government. As my noble friend Lord Horam said, that is quite soon after the event.

Many private registered providers are in a strong financial position. Overall, the sector had a surplus of £2.4 billion in 2014, and local authorities had £2.2 billion in local authority housing reserves. However, it may be helpful if I recap some of the amendments made in another place which have been welcomed by housing providers. These include allowing providers with rent levels below formula to increase rent to the social rent rate when re-letting a property—that is formula less the appropriate annual reductions; and providing the Secretary of State with powers, by regulations under Clause 26, to allow rent setting for new tenancies in supported housing at up to 10% above the rate for general-needs housing. This should help providers of supported accommodation for vulnerable people to continue to provide that important housing.

Funding for supported housing is also part of the Government's wider financial settlement to councils. This includes investing £5.3 billion in the better care fund in 2015-16 to deliver faster and deeper integration of health and social care. This will help councils to invest in early action to help people live in their own homes for longer and help prevent crises, as well as supporting councils to work more effectively together, deliver better outcomes for less money and drive integration across all local services.

Noble Lords have expressed concerns about the impact of these reforms on housing supply. Let me be absolutely clear that the Government remain committed to ensuring that there is housing for those who cannot access the market. The recent spending review further confirmed this Government's commitment to housing provision. As I said in the debate on the previous group of amendments, we have £8 billion to deliver over 400,000 affordable housing starts; that is the largest affordable housebuilding programme by a Government since at least 1979. This includes around 100,000 homes for affordable or intermediate rent. However, we recognise that the rent reductions may have an impact on some registered providers. That is why the Bill provides for both exceptions to the policy, in Clause 22, and exemptions to the policy, in Clause 23, which we have debated previously.

The noble Earl, Lord Listowel, talked about the impact on child homelessness. I am sure he will forgive me if I say that the impact on the child will be the same as the impact on their family. The whole purpose of both this Bill and the housing Bill is to build a range of different types of houses for a range of different types of tenure, and for the social sector not to gallop out of kilter with the private rented sector, as it has. Of course, those children will grow into young people, and the Government have an ambition to provide 200,000 starter homes for people between the ages of 20 and 40.

Baroness Hollis of Heigham: I wonder whether the Minister could rephrase her comment about social rents being out of kilter with the private rented sector.

She has heard the evidence in previous discussions: first, that those social rents rose because government required them to rise; and secondly, that social rents are on average about 40% or less of private sector rents. Therefore, the pressure on the housing benefit bill has come very substantially from the increase in the number of properties in the private rented sector. That is completely at odds with the position that the Minister keeps painting: that the justification for increasing social rents is that they are somehow out of kilter.

The Earl of Listowel: That is certainly my understanding too: that more and more the poorest people are being pushed into using the private rented sector as the supply of affordable social housing has dwindled. This has led to more insecure housing and, unfortunately, more and more homelessness. Of course, many of these people are parents, and therefore their children become homeless too. Perhaps the Minister might think of writing to me before Report, because I have not given her notice of my question. However, I am listening to what she has to say.

Baroness Williams of Trafford: I am very happy to write to the noble Earl. I do not make a judgment about why social rents have, in percentage terms, increased out of kilter with those in the private rented sector. The quantum might be different but, in percentage terms, they are out of kilter with the private rented sector.

Baroness Hollis of Heigham: My Lords, essentially, the Minister is saying that it is now acceptable to punish local authorities and housing associations for doing what the Government required them to do.

Baroness Williams of Trafford: No, my Lords; I am saying that we need to reset the picture for the social rented sector.

Baroness Hollis of Heigham: Does that mean that the Minister did not know a year ago what the effect of the policies would be?

Baroness Williams of Trafford: My Lords, I was not the Minister a year ago. However, I get the noble Baroness's drift. The point is that we now have a majority Conservative Government and this policy has come out of that. I am not saying in any way, shape or form that it is the social rented sector's fault. I am saying that that is the position in which we find ourselves, due to many different factors. Over the past few years, inflation has been one of the factors driving it up. However, I will correct that if I am wrong, given that I am saying it from the Dispatch Box.

The noble Lord, Lord McKenzie, asked about the guidance to social providers on maintaining surpluses. We feel that it is a matter for the housing association boards to run their businesses as they see fit. It is a well-regulated sector that, to date, has managed its finances magnificently. Boards have been advised to raise any anticipated exceptional challenges with the regulator to discuss any difficulties that they might anticipate.

Lord McKenzie of Luton: Is any guidance given to local authorities on prudent reserves?

Baroness Williams of Trafford: As an ex-local authority leader, I can tell the noble Lord that we were always advised through CPA inspections and so on that reserves should be used in a managed spending process and not to prop up revenue deficits—they would be used for maintenance of properties and that sort of thing.

Noble Lords: Exactly.

Baroness Williams of Trafford: But they have revenue and capital reserves. I do understand local authority obligations on reserves.

The noble Baroness, Lady Blackstone, talked about the impact on tenants. The Government published an impact assessment, which included the impact on protected groups. A third of social renters actually pay less. However, I will write to the noble Baroness more fully on impact because I realise that I did not answer her question on the last group of amendments.

Baroness Blackstone: I am not sure that the Minister has understood my question. It was about the impact of a reduction in rent on the Government's housebuilding targets. What is her view on that? The Government ought to have some idea now; although it also ought, along the lines of my noble friend Lord McKenzie's amendment, to be monitoring this, perhaps not just over 12 months but over a longer period, to get some sort of understanding of what the impact is. No Government should come up with a proposal of this sort when they have committed to an increase in the number of houses being built without some understanding of what its impact will be.

8 pm

Baroness Williams of Trafford: Perhaps I may write to the noble Baroness; I understand her point. However, I also understand the point made by my noble friend Lord Horam: it is difficult to assess an impact within 12 months. It will probably take longer.

The noble Lord, Lord McKenzie, asked about the high-income social tenants' policy and its impact on housing. It is worth noting that we will have an opportunity to scrutinise this fully during the passage of the Housing and Planning Bill, when I will probably be the Minister standing at the Dispatch Box. However, at this point I hope the noble Lord will feel able to withdraw his amendment.

Lord McKenzie of Luton: My Lords, I thank all noble Lords who have participated in this short debate. The noble Earl, Lord Listowel, expressed his concerns about the impact of the policy on children; the noble Baroness, Lady Manzoor, believed that we had a straightforward, simple proposition to put to the Government; and my noble friend Lady Blackstone still awaits an answer to the fundamental question she has now raised on the last two groups of amendments. We must hope that the correspondence from the Minister will elicit a response.

I accept the point that if particular issues arise, the route of exemptions and exceptions may be brought to bear to address them, but that does not substitute for the fundamental question my noble friend is asking: what is the Government's assessment, in introducing

these policies, of the impact they will have on the provision of housing and their targets for building houses? How will it be affected by this?

The noble Lord, Lord Horam, made a reasonable point about monitoring and said that one should do that after a period of longer than 12 months. I hang on to my point that we are looking for two things here: the Government's current assessment of the impact on housebuilding of the introduction of the policy; and then monitoring what will happen in practice.

We have given this issue a good airing. For the time being, I beg leave to withdraw the amendment.

Amendment 105 withdrawn.

Amendment 106 had been retabled as Amendment 104BA.

Clause 21 agreed.

Clause 22: Exceptions

Amendment 107

Moved by Lord McKenzie of Luton

107: Clause 22, page 21, line 6, at end insert—

“(c) the accommodation is specified accommodation, as defined in The Housing Benefit and Universal Credit (Supported Accommodation) (Amendment) Regulations 2014 (S.I. 2014/771).”

Lord McKenzie of Luton: My Lords, Amendment 107 calls for certain types of property to be excepted from the provisions of the rent reduction scheme. It was assumed when it was drafted that it would have the same effect as Amendment 109 in the name of the noble Lord, Lord Best, and others. I acknowledge that Amendment 109 seems to have garnered a broader range of support and doubtless this has much to do with the credibility of the person whose name is at the top of it as well as the substance of the drafting.

The scope of this exception is built on the coverage of the regulations which widen the protection from the benefit cap. It is intended to include supported housing where the landlord is of a specified type and provides, or causes to be provided, care support or supervision to claimants; supported accommodation where the landlord is a specified third or social sector provider and care, support or supervision is provided to residents; third and social sector refuges, including local authority refuges where a claimant is accommodated because they are fleeing domestic violence; and local authority hostels providing care, support or supervision.

The Government's briefing note on these clauses indicates that they are minded to align exceptions to the policy with exemptions that apply to the rent policy set out in the rent standard guidance. We would support this as far as it goes as its coverage would include PFI schemes, temporary social housing and short-life leasing schemes for the homeless, residential and nursing homes, student homes and key worker accommodation. Perhaps the Minister will confirm that this is still the intent and say why, therefore, more could not be put in the Bill.

[LORD MCKENZIE OF LUTON]

Despite this, it is considered that the specialised supported housing definition included in the rent standard is too limited. The guidance itself has indicated that interpretation has not been without difficulty. For example, it says that the exemption from social rent requirements of specialised support in housing is usually limited to those properties developed in partnership with local authorities or the health service and which satisfy all of the following criteria. The scheme should offer a high level of support for clients; no or negligible public subsidy should have been received; and the scheme should have been commissioned in line with local health and social services or supporting people strategies and priorities. I paraphrase.

Adopting the definitions in the housing benefit and universal credit regulations—which is what this amendment and the amendment of the noble Lord, Lord Best, do—will provide a wide enough basis for an exemption from Clause 21. The reason we need a comprehensive exception from the policy in this respect has been abundantly clear from the range of submissions we have received. As the submission from Homeless Link sets out, the type of accommodation we are referring to—let us call it supported housing—caters for a wide range of tenants with specific needs requiring various degrees of support. It points out that this provision is generally more expensive to build, manage and maintain. The fear is that the rent reduction measure will lead to a loss of existing supported housing schemes, with fewer schemes being developed in the future. Those who bear the brunt will be the homeless, those with mental health problems, people fleeing domestic violence, those with learning disabilities and those with drug and alcohol problems. Denying them the chance of decent accommodation and care and support will only push the costs elsewhere in the public sector as well as impairing the life chances of those whose quality of life is under challenge.

We have been presented with examples of projects that will fall by the wayside, including from Riverside, with a third of its supported housing schemes being at risk; St Mungo's, with a cumulative four-year loss of projected income of £4 million; and the YMCA, with the potential end to a housing project for 170 16 to 17 year-olds. Indeed, Riverside has set out a range of stark facts. It states that early Riverside projections indicate the impact of the rent decrease policy will be a reduction in income in excess of 16% over four years, a cumulative total of almost £100 million, which it says will reduce its operating margins by 9.5%. Riverside owns and manages around 4,600 units of supported housing. Housing associations as a whole manage 105,000 units of supported housing, which is 3.7% of all stock managed. The level of savings forgone, it is suggested, as a result of an exception for supported housing, would be modest.

Having moved this amendment, I hope it puts us on the same page as the noble Lord, Lord Best. I look forward to hearing from him to see whether we can forge a common position. I beg to move.

Lord Best (CB): My Lords, I speak to Amendment 109, which covers the same issue as Amendment 107, moved by the noble Lord, Lord McKenzie of Luton. Of course

I entirely support that amendment, which was so well presented by the noble Lord. In both cases the amendments look for an exclusion from the proposed 12% rent cuts for supported housing as defined in housing benefit and universal credit regulations. I am grateful to the noble Lords, Lord Kerslake and Lord Shipley, and the right reverend Prelate the Bishop of Rochester for supporting this amendment, and to the noble Lord, Lord Horam, who spoke earlier in favour of exceptions and exclusions for cases of this kind. I also offer sincere thanks to Members from all sides of the House who signed a letter to the *Times*, co-ordinated by the National Housing Federation just before Christmas, expressing the hope that the Government would give favourable consideration to the case we are making today.

The specialist housing organisations that fall within this definition—such as St Mungo's Broadway, the YMCA and many small charities—would suffer a major blow from the 12% reduction in income from their rents. These are the organisations on the very front line, providing supported housing for those with mental health, drug and alcohol problems, homeless people, care leavers, those fleeing domestic violence, as well as veterans and older people needing care and support.

The vulnerable people these charities support inevitably require higher spending than for general-needs renting. The charities working for them operate on the margins of viability and can easily be pushed over the edge. As well as supported housing being provided by specialist bodies, many of the larger housing associations have been keen to include schemes of this kind within their wider stock, but these social businesses cannot absorb loss-making projects. It is very hard for them to sustain this specialist provision if supported housing becomes a financial liability.

Management costs are not the only ingredient that means supported housing must have higher rents than the norm. There are higher maintenance costs due to the higher turnover of tenants, greater wear and tear, more voids between lettings, more arrears, and even significantly higher insurance premiums. Yet without these housing schemes it is certain that a lot of people will suffer the most acute deprivation, including living out on the streets. Moreover, the wider impact on society from neglecting their needs will be immense. The Homes and Communities Agency found that supported housing work produced a net positive financial benefit of some £640 million—more than six times the savings that the Government would obtain from cutting rents by the fourth year of this rent-cutting policy.

The accommodation covered by the amendment has already been given special status in respect of the new benefit cap and exemption from the so-called bedroom tax. Therefore it seems entirely consistent to exclude these hostels and specified accommodation schemes from the requirement for rent cuts. The Government have stated that it might be possible for an organisation which could face extinction as a result of the rent reductions to apply for a waiver from this requirement. However, there are two flaws in this approach to solving the problem now facing housing.

First, the specialist charities requesting a waiver face ongoing uncertainty and an unknown, potentially bureaucratic and time-consuming process to decide the somewhat extreme question of whether they will become insolvent rather than just be completely undermined by losing so much income. Secondly, the waiver route does not address the issue of supported housing provided within their wider role by larger housing associations that do not face financial ruin but which are likely to pull back from pursuing this kind of accommodation if rent cuts render supported housing loss-making.

If an association with wider objectives has to improve its financial viability by closing its supported housing schemes, the effect will be just as bad as forcing a small charity out of business. This is where we get into the issues raised by the Minister on the difference between exempting organisations by providing a waiver if they look like they are going bust because of the rent reductions, and excluding categories of housing—the category in this case being supported housing.

I know that the last thing the Government want is to undermine housing provision for those in the most acute need, with all the extra expenditure for the NHS, social care, the justice system and the rest which would follow. I believe that the Government already have a concession of this kind in mind, but confirmation of the position by the Minister is needed urgently because the process for a rent reduction on 1 April, with the sending out of thousands of notices to tenants and local authority housing departments, which will be very hard to rescind, must begin at the end of this month.

I must conclude with a footnote, albeit a rather important one. The Government are also planning to introduce another constraint: a cap on housing benefit for council and housing association tenants at the same level as for tenants of private landlords; that is, at the local housing allowance level. This ceiling is not a problem for the great majority of housing association properties since their rents are lower than in the private rented sector. The noble Baroness, Lady Hollis, suggested that they are something like 40% to 50% lower. But, of course, rents for supported housing—the kind of housing that private landlords do not provide—are obviously much higher.

For example, a homeless project for people with mental health and/or drug and alcohol issues is currently charging £119 per week, but the relevant local housing allowance maximum for an ordinary one-bedroom flat is £84 per week, so the new cap at LHA levels would mean a loss of £35 per week per flat for the project. A purpose-built autism scheme for enabling people to move out of institutional care would face a shortfall of £90 per week per flat, even though the scheme saves huge sums compared with the costs of leaving people in the institutional setting.

8.15 pm

Similarly, housing associations providing purpose-built retirement and extra care developments for older people are supplying a substantial level of additional services which take the inclusive rent way over the LHA level for a straightforward, single-person flat. One typical case is the housing association Housing and Care 21, previously the Royal British Legion housing association, which estimates that it would lose £23 million per

annum. Its work for older people, including dementia sufferers, would come to a halt if all rents had to be reduced to the LHA level. Of course, this accommodation, too, is saving much higher costs of residential care and is preventing hospital bed-blocking. It would be madness to put these organisations out of business.

Again, I am convinced that the Government do not want additional caps to undermine their housing, health and care policies for those with specialist support needs. Can the Minister assure the Committee that, alongside an exemption from the 1% rent cuts, supported housing will not be covered by the new LHA cap? I strongly support these amendments.

Lord Kerslake: My Lords, I support this amendment. I will keep my comments short because my noble friend Lord Best covered very well the key issues. I shall make a small number of points. First, this housing supports people who are most at risk and most in need; that is, domestic abuse refugees, homeless hostels and shelters for frail, older people. Secondly, some housing associations have made a very serious investment and commitment to this form of housing. If we do not accept these properties, the effect would be to penalise those who have taken the bold steps to make this sort of provision.

The noble Lord, Lord McKenzie, referred to Riverside, with which I have also met. Its calculation is that the rent reduction will result in an overall loss of income from Riverside-supported housing schemes of £2.3 million per annum. Crucially, by 2019-20, nine schemes will be pushed into becoming loss-making schemes. A housing association that has done the right thing and has invested in crucially needed, supported housing will face significant losses in its operation of that housing.

Thirdly, an already fragile set of services will become more so. In that context, it is almost certain that housing associations burned on this occasion will not invest in the future. We will put at risk a crucially needed new supply of housing to meet these needs. Something that was previously marginal will become unviable and we will therefore see the consequences of this down the track.

Like my noble friend Lord Best, I cannot believe that this was an intended consequence of the Government in their rent reduction policy. This amendment addresses the issue head on and seeks to put it beyond doubt for those housing associations which have already invested in this type of accommodation or which plan to invest in it.

The Lord Bishop of Rochester: My Lords, when I added my name to the amendment in the name of the noble Lord, Lord Best, I did so in the naive belief that we might be pushing at an open door. I still maintain that belief because I hope that the Minister will reassure us on some of these matters. I, too, cannot believe it was intentional that we would be threatening to undermine the housing provision for some of the most vulnerable people in our society. The two noble Lords who have just spoken have made many of the points which I would have made, and others have been made earlier this evening.

I underline our commitment as a society to these very vulnerable groups, which includes the frail elderly and the other groups who have already been mentioned.

[THE LORD BISHOP OF ROCHESTER]

In many ways, we have a moral responsibility as a society to provide for these people. In addition, there is a much more self-interested argument. The investment we make in this kind of housing, as has already been hinted at by one or two other contributors to our debate, prevents other costs which are far harder to control and which would roll out in the future if this kind of provision was placed in jeopardy.

Mention has been made of housing providers having surpluses and so forth. But in this particular part of the supported-housing world, very often we are dependent on small providers—charitable providers—which do not have that kind of background or those resources on which to call. I have grave concerns about some of the small charitable providers that are part of this bit of the sector and whose financial viability could be called into question and made very difficult. These organisations work with people with very complex and high support needs where margins are already very tight.

As has already been indicated, this policy change would come in at the same time as the LHA changes. Montgomery Court in my town of Rochester provides an extra care scheme for frail elderly people. We estimate that with the LHA cap, it would lose £65 a week per unit. These kinds of schemes are often very dependent on high staffing levels in relation to the support provided. It is precisely the sector where very good policies around minimum wage and living wage are likely to increase costs for providers in a way that might not be the case in other sectors. We find these providers potentially being hit from a number of different sides at the same time. At the very least, we need clear estimates of the impact, not just of one policy but of a range of policies which could come to bear on these organisations within a short space of time.

Mention has been made also about undermining the confidence of providers in investing in new provision. Again referring to extra care places for frail elderly people, in Kent where I live we have fewer than 500 such places. The estimate is that we need 10 times that amount by the end of this decade. That is a significant increase and those specialist providers will need to have serious confidence if they are to make that kind of investment.

As has already been indicated, these two amendments draw upon a definition which has already been established. It seems to me that there is a logic and consistency in building on that. At the end of the day, although we have been talking about the viability of organisations, this is about the provision for people and for some of the most vulnerable people in our society. Therefore, I, with others, hope to hear encouraging words from the Minister in her response.

Baroness Blackstone: My Lords, I rise briefly to support what has been said very eloquently by all those who put their names to this amendment. I just want to underline one thing. Supported housing of this sort is absolutely central to keeping a wide variety of very vulnerable people out of much more expensive institutional care, whether it be hospitals, residential homes for the frail elderly or criminal justice institutions. It is a really good example of the need for joined-up policy thinking in this particular social area. I hope that the Minister will accept that this is of enormous importance

from the point of view of cost and good social policies, but also of the humane cost of the possible abandonment of these people because the housing association special institutions are no longer able to operate.

Lord Shipley: My Lords, I hope that the Minister understands the seriousness of this matter. I do not want to repeat what other speakers have said. Suffice it to say that there used to be three sources of funding for supported housing: the Supporting People programme, specific grants, and the income from rent and service charges eligible for housing benefit. Given the deep budget reductions to the first two, it has left income from rent as critical to the financial viability of schemes. That is an important issue to be made clear, because if rents go down, the income inevitably goes down and cannot be replaced from other sources. As we have heard, that 1% annual rent reduction policy will have two consequences for supported housing: a reduction in new building and lower staffing support for schemes, and, indeed, the potential collapse of schemes, given that the management and maintenance costs of supported housing can often be a third higher than the general housing stock.

When I spoke on this matter at Second Reading, I said that there was a danger that if the preventive role of supported housing were reduced, it would push up costs in other parts of the public sector. As the noble Baroness, Lady Blackstone, has pointed out, there is evidence that the rest of the public sector has to pay out more if supported housing is not there to help people. A few years ago, the Homes and Communities Agency reported that there was a substantial net saving for the public sector from investing in specialist housing.

A further consideration is the evidence of the National Housing Federation, which has identified a shortfall of more than 15,000 units in the number of supported housing lettings available each year to people of working age. Furthermore, there is some evidence that the recent rise in rough sleeping is related to the lack of supported housing lettings. So the conclusion is pretty clear. I understand that the cost to the Government in agreeing Amendments 107 and 109 is around £75 million per year—I would be grateful if the Minister could confirm that number. If it is, then surely it is at a level low enough for the Government to accept the cost, because the advantages to the public service outweigh the cost of the £75 million loss.

Lord Young of Cookham (Con): My Lords, I intervene briefly from these Benches to add my support to Amendment 109 in the name of the noble Lord, Lord Best. When I intervened at Second Reading, I mentioned that I wanted to return to this issue in Committee. Subsequent to that, the noble Lord, Lord Kirkwood, chaired a meeting on the Committee Corridor of a number of organisations which would be directly affected, and they made some very moving presentations about the implications for them if the Bill went through without further amendment. Subsequently, I added my name to the letter referred to by the noble Lord, Lord Best, to the *Times*, expressing the hope that the Government would smile on this amendment or give the necessary comfort in some other way.

As others have said, the last thing my noble friend wants to do is to precipitate the closure of valuable schemes run by voluntary organisations providing support

to vulnerable groups. Indeed, that is why there is a whole clause in the Bill entitled “Exceptions”, and subsection (5) gives powers to the Secretary of State to do basically what he wants to. The exemptions that have been trailed so far by the Government are welcome, but I agree with others that they may not go quite far enough, and I wonder if we can just nudge the Government a little further to give a greater degree of comfort to those running these projects.

8.30 pm

I am slightly worried about the waiver route. I am worried about the impact on staff, on residents and on funders if an organisation has to declare publicly that it will face financial hardship and therefore needs to go for help. I think that it is much better to put these organisations on a sounder financial basis from the word go, rather than expect them to go through that route.

As the noble Lord has just said, the funding of these projects has always been more complicated than mainstream housing because they need a variety of funding sources. I remember, when I was Housing Minister in, I think, 1985, putting an Act on the statute book that introduced something called the hostel deficit grant. Noble Lords may remember that—it lasted, I think, four years and then was subsumed by the less memorable transitional special needs management allowance, which I think eventually morphed into Supporting People. However, one of the bricks that has supported the structure has always been housing benefit, and the last thing that these organisations want is an erosion of that fundamental support at a time when they are struggling to tick all the other boxes to get the other funding that they need.

I wonder whether my noble friend, between now and Report, would agree to meet representatives of some of the organisations involved to see whether we can reach some accommodation that, within the structure of the exemption clause, gives them the comfort that they need and avoids the process, which is currently envisaged, of asking for waivers. I know that my noble friend’s heart is in the right place, and I hope that she will be able to give me and others who have spoken in this debate the assurances that we want that she will do what is necessary to prevent these projects from going under.

Baroness Warwick of Undercliffe (Lab): My Lords, I support these two amendments, and I declare an interest as chair of the National Housing Federation.

I support so many of the arguments that have been made throughout the debates this evening. I am extremely concerned about the impact of the 1% rent reduction on housing associations and their tenants. The federation estimates that the 1% cut year on year will mean a loss of £3.85 billion in rental income over the proposed four-year period. As has already been said, the Office for Budget Responsibility has warned the Government that the result will be 43,000 fewer homes than housing associations would otherwise have been expected to build.

The irony of this is that associations want to build homes, and they will be doing their utmost to manage the cuts and to strive for the efficiencies that the

Minister has already referred to, but this is presenting them with an absolutely huge hurdle. It is also ironic—and others have made this point—that the Government, too, are ambitious. Given their ambition, and the urgency of that ambition, to build 1 million more homes over exactly that same four-year period, I agree with others that this policy seems somewhat perverse.

Even more perverse is the impact of the 1% cut on the provision of social housing for the most vulnerable people referred to in these amendments, including those escaping domestic abuse, veterans, people with disabilities and the homeless. All fall under the heading, which the Minister referred to, of specified accommodation. In speaking to these amendments, I want strongly to urge the Government, even if they change nothing else, to change their mind on this issue and to exclude this highly specialised, challenging and much more cost-intensive provision from the rent reduction requirement.

The Government will know that the purpose behind these amendments has support from all corners of the House. Indeed, the letter to the *Times*, which many of us signed and has already been mentioned, urged just such a reprieve for supported housing. I also believe that the Government did not intend to harm vulnerable people or to increase homelessness, yet that is exactly what this policy will do, and indeed it is already doing it.

Make no mistake: if the Government are to avoid what is likely to be a catastrophe for these very vulnerable people, they need to act now. I cannot overstate the urgency because, in the next few weeks, associations will be sending out thousands of letters about rent levels from 1 April. They will need to know what the position is for supported housing. Indeed, many of them have already discussed plans for closing down these facilities—these homes—because the financial risk would be too great to sustain them. They are making these plans with heavy hearts. These homes are a fundamental part of their social mission and charitable purpose. These are the very people associations were set up to house.

The sector has spoken with one voice on this issue and the message delivered to government could not be clearer. Providers of supported housing are united in their commitment to care and support for these vulnerable groups and equally united in their concern about the impact the rent reduction will have on their ability to develop and provide housing and services for these people in the future. It is worth emphasising that, unless the Government commit to this change, there will inevitably be much greater pressure on the NHS and a rise in homelessness.

On any count, this policy does not make financial sense. If it were excluded from the rent reduction measure, as we urge, it would reduce savings on that policy overall by £93.5 million, but the Homes and Communities Agency has estimated that the provision of specialised housing for vulnerable and older people saves the public purse £640 million—more than six times more. That is real value for money.

The Government have acknowledged that the rent reduction may cause a reduction in service provision, but their proposed solution is no solution at all—neither an organisational waiver, which the Minister referred to in her response to the previous amendment, nor a

[BARONESS WARWICK OF UNDERCLIFFE]

partial waiver, also mooted, offers a viable solution to a sector-wide problem. Indeed, one of the issues has again been referred to: since these schemes are higher and the margins much tighter, the rent reduction may sometimes push supported housing into deficit while not pushing the whole organisation into financial deficit. They may be abandoned to sustain financial viability. That is an important point that the Government need to take into account. It would certainly be extremely expensive and time-consuming to establish. I do not see how either of these would offer providers the certainty that they need to take the financial risks involved in continuing this provision.

I have had the opportunity to talk to the Minister and I am most grateful to her for engaging with me on this issue. I, like others, very much hope that she can today commit to bringing forward an amendment to address these concerns on Report. Providers stand ready to help the Government find the right way forward, but above all we expect to see the Government commit to what they have promised: to ensure that the provisions in the Bill do not have unintended harmful, even disastrous, consequences for the care and housing of some of the most vulnerable people in our society.

Baroness Manzoor: I rise just briefly, because I am an optimist and I do not want to delay the Committee further, to say that I totally concur with Amendments 107 and 109—they are one and the same—and the issues surrounding them relating to supported housing. I commend the Government on keeping supported housing out of universal credit and other benefits when they did their calculations. To my mind this is very similar. There needs to be clarity. As I said, I am an optimist; I do not for one minute think that the Government intended for these negative consequences to occur for supported housing where it is particularly needed for young people and people who may be homeless, and where crisis housing and services are needed.

I concur with everything that has been said and will add just one last point: if an organisation is totally on its knees, it will not think about investing for the future or how to improve. If an organisation has to come cap in hand back to the Government to say, “We need to be exempted now”, that will be too late because those services will have been lost for the future. That will invariably have an adverse effect on service standards. People may well end up being homeless. We must not forget that these organisations are there because we need crisis management for these people, whether they are drug users, young people on benefits, women fleeing domestic violence and so forth. I ask the Minister to answer the questions that were put so well by the noble Lord, Lord Best, to clarify whether specific accommodation and supported accommodation will be exempt from the measures in the Bill.

Lord Kirkwood of Kirkhope: My Lords, I should like to add a codicil to the debate. I hesitate to join in this interesting discussion and I have listened very carefully to what has been said. I come from Scotland. North of the border, this debate and the Government’s proposals for the housing association social rented sector in general, particularly the supported part of

that important contribution to our housing capacity, are viewed with total disbelief. People north of the border would consider that this debate, while taking into consideration the economic case, omits the social ethic and commitment that housing associations and supported housing organisations bring to the provision of accommodation units in the United Kingdom. There is a separate way of looking at things, and that ethic is being put at risk by some of these policies.

We have heard the Prime Minister say that he will address poverty by addressing what he calls its root causes. Some of that is absolutely embedded in the homes of challenged families, with drug abuse and people who are recidivists and serial offenders who come out of prison, and all of that kind of thing. The housing association supported sector as it is deployed in the United Kingdom is absolutely at the centre of supplying some of the solutions that the Prime Minister is aiming for in other aspects of government policy. That includes the Work Programme and universal credit. Housing associations are playing a very engaged and positive role in the rollout of universal credit, as I have seen for myself when visiting some of them. So I am puzzled that this supported sector is being put at risk—and I think that it is being put at risk.

We have heard evidence from some very powerful people with professional understanding of this issue. The right reverend Prelate and his colleagues also have personal experience of the consequences of a failure to support, care for and supervise some of the clients who use supported accommodation. It is clear to me that there is a real and present danger that we will end up reducing the sector’s capacity to operate. To my mind that case has been absolutely made. The noble Lord, Lord Young, referred to a powerful meeting attended by people who will be affected by these changes, which he and I both attended.

How I approach this issue on Report will depend a lot on whether I can understand the Government’s position with regard to the future risk to supported accommodation but, more importantly, with regard to exemptions. If we do not know what the Government are willing to do—if anything—by way of exemptions, we will be left to our devices in coming up with amendments, which will be pressed. Speaking for myself, although I am from Scotland, if some of the issues that have been so powerfully argued this evening are put to the vote, I will have no hesitation in supporting attempts to mitigate the Government’s policy.

The approach of the noble Lord, Lord Kerslake, is absolutely right. The Government have made their position clear and no one is trying to stop that happening, but mitigation is possible, constructive and available if the Government are willing to discuss and treat. The only way they can begin to help us do that is by making their policy clear this evening, as Committee ends. Then we can go away and discuss the options collectively and respectfully so that we can get the best outcome in the remaining stages of the Bill. The Minister needs to make clear the Government’s position on exemptions for supported accommodation. Otherwise, we will meet her in the Lobbies on Report later in the month.

8.45 pm

Baroness Williams of Trafford: My Lords, I have listened very carefully to the comments made by noble Lords this evening in debating the amendments that would extend the exceptions—which we were talking about two amendments ago—to the policy to specified or supported accommodation. I can offer some reassurances in this area at this stage. It may be helpful if I first recap the commitment made in another place, which was welcomed by housing providers, to continue to allow rent setting for new tenancies in supported housing at up to 10% above the rate for general-needs housing. This should help providers of supported housing for vulnerable people to continue to provide that important housing. We will put this in place by way of regulations under Section 26, the power to make alternative provision for excepted cases.

To address the point made by the noble Lord, Lord McKenzie, the Government have also made clear their intention to continue to except those types of housing that are currently exempted from the rent standard, subject to determining whether the existing definitions are appropriate in light of the revised policy. These include specialised supported housing, which provides support for the most vulnerable people and was developed in partnership with councils or the health service. We will bring forward regulations to set out these and any further exceptions needed, under Clause 22 or paragraph 5 of Schedule 2, as appropriate.

Baroness Hollis of Heigham: To go back to a question we asked about an hour ago, will the noble Baroness be providing those draft regulations before Report?

Baroness Williams of Trafford: I cannot give that commitment at this stage, but as soon as we can make any progress on it we will.

Baroness Manzoor: I understand that the Minister cannot give the commitment now, but can she assure the Committee that, having reflected upon it, she will undertake to write to us to say how soon that could take place?

Baroness Williams of Trafford: My noble friends Lord Freud and Lady Evans and I have already been speaking to providers and my noble friend Lord Young brought this point up. I undertake that we will continue to speak to providers, but I simply cannot make a commitment from the Dispatch Box at this stage. We are doing all that we can to work with providers.

Baroness Hollis of Heigham: I am afraid that is not an accurate statement of where we are. The Minister has known for some time that this is on the agenda. She has known since before Christmas that this issue was coming up. She has talked to the providers; she knows the concern around this House; everyone in this Committee has requested, begged or asked the Minister. She knows what will happen on Report if she does not. Given her consensual style, her willingness to meet providers and her wish to respond to the sense of the Committee, I am sure that she must come back before Report to tell noble Lords what she will do about this, so that we can make a judgment. That would go a

long way to abate the concerns which she recognises. If she has to tell the department that it has to change its timescale, so be it.

Baroness Williams of Trafford: My Lords, the noble Baroness has been in government and she knows the processes of government. She is right to say that I am a consensual politician, where I can be, but I will not stand at the Dispatch Box and give assurances that I cannot absolutely fulfil. I therefore have to say that I cannot do that but I will be doing all I can to make progress in this area. That is all I can say at this stage.

Lord McKenzie of Luton: My Lords, I thank the Minister as I thought that what she was beginning to say was encouraging, but can I clarify one point about the reference to specialised supported housing? This is really the nub of the issue. Is the definition which the Government are working towards the same as that exempting people from the benefit cap, or is it a different one?

Baroness Williams of Trafford: My Lords, it is different. We are looking at this whole area of provision but it is a different definition. The noble Lord asked whether we could include the exceptions on the face of the Bill. They would probably be too complex to include in the Bill, while regulations would provide more flexibility to effect better the appropriate definitions and make adjustments in due course.

Funding for supported housing is also part of the Government's wider financial settlement to councils. This includes investing £5.3 billion in the better care fund in 2015-16 to deliver faster and deeper integration of health and social care. This will enable councils to invest in early action to help people live in their own homes for longer. It will also help prevent crises, as well as supporting councils to work more effectively together, deliver better outcomes for less money and drive integration across all local services. We are also investing in specialised housing for older people. In the spending review, we have committed £400 million of funding to deliver 8,000 specialised homes for the vulnerable, elderly and those with disabilities through the affordable homes programme, with a commitment to further funding from the DoH for specialist accommodation. We will continue to support local areas to meet their local needs by maximising funding flexibility.

I think it was the noble Lord, Lord McKenzie, who asked about the combined impact of the social rent reduction and capping the highest housing benefit awards for social renters, in line with caps applicable in the private rented sector, meaning that supported housing will be decimated. Now that I am looking at the noble Lord, I do not think it was him who asked this. But there was a noble Lord who asked that question, because I have written it down. Applying a cap on the highest social rents will mean that housing benefit will no longer subsidise families who take new tenancies in social houses that many working families cannot afford. The new cap will have effect only from 2018 for new or re-let social tenancies signed after 1 April 2016.

The noble Lord, Lord Shipley, asked whether the savings of £75 million were for supported housing. I do not know but I will write to him about it and I can

[BARONESS WILLIAMS OF TRAFFORD]

come back to that question on Report, if he wishes. My noble friend Lord Young asked whether we can meet providers, as I think I have said. We have met providers and will meet them again.

Finally, I reiterate that while we expect providers to make all possible efforts to manage the rent reductions and plan on that basis, Clause 23 allows for individual providers to apply for an exemption from the rent reduction if they think that they will face severe financial difficulties.

Baroness Hollis of Heigham: Does the Minister think that it will remain private if any organisation comes to the Government saying, “We’re about to go bankrupt—please help us”? Do they think that the organisations will continue to get the confidence of their local authorities, or of the markets or investment? I am staggered by this approach of “Go to your knees, then we may help you out”, as though that is a way in which providers could continue to support some very vulnerable people.

Baroness Williams of Trafford: My Lords, providers have a very good track record both in managing their finances and in terms of the housing that they provide, and I do not expect that a housing provider will go to the Government only when it is on its knees. In well-run housing associations, I expect that forward planning would show what sort of difficulties might be coming up and that they might therefore apply for an exemption on that basis. I hope it would not be at the 11th hour, because that is not good financial planning. I hope I have provided some reassurances and that the noble Lord will feel able to withdraw his amendment.

Lord McKenzie of Luton: My Lords, I thank the Minister for a very comprehensive reply. There was a moment there where I thought some comfort was coming, but it disappeared relatively quickly. I thank all noble Lords who participated in this short debate—forgive me if I do not pick up on all the comments, because I believe that pretty much everyone who spoke on this issue shared the same view. I also believe that the Government did not intend this to happen. We will cling to that belief and hope that it sees us to a sensible solution at the end of the day.

There is an overwhelming recognition that supported housing of the type we have discussed is significantly needed in our country, and that if it is not provided, the cost to the rest of society will spill over and be much worse. We need to act quickly on this. The noble Lord, Lord Best, in his comprehensive argument in favour of the amendments, made the point that we need to pursue exceptions rather than exemptions. Exemptions will not be any use to those associations which embed provision within their business plans, and the uncertainty that having to seek an exemption will lead to is one that many will not be prepared to live with or cannot live with. Urgency on this is important.

I do not think we had an answer on whether the other components which are exempted from the rent standards at the moment, such as PFI schemes, temporary social housing and short-life leasing schemes for the

homeless, are going to be replicated in some way. The important point is that if the definition of specialised supported housing is not going to be the broader one, then the job will not be done, and we will return to this if it is not. We look forward to continued engagement on this between now and Report, but in the mean time, I beg leave to withdraw.

Amendment 107 withdrawn.

Amendments 108 to 108A not moved.

Amendments 108B to 108D

Moved by Lord Freud

108B: Clause 22, page 21, line 7, leave out subsection (2) and insert—

“(2) Section 21 does not apply in relation to social housing of a registered provider if, where the registered provider’s interest in the property that consists of or includes the social housing is subject to a mortgage—

- (a) the mortgagee is in possession of the interest in the property or the part of the property that includes the social housing, in the exercise of the mortgagee’s powers to enforce the mortgage,
- (b) a receiver has been appointed in relation to the interest in the property or the part of the property that includes the social housing by—and that appointment is in force, or
 - (i) the mortgagee, in the exercise of the mortgagee’s powers to enforce the mortgage, or
 - (ii) the court, in connection with enforcing the mortgage,
 and that appointment is in force, or
- (c) a person has been appointed by the mortgagee, in the exercise of the mortgagee’s powers to enforce the mortgage (including, in the case of a floating charge which relates to the interest in the property, the power under paragraph 14 of Schedule B1 to the Insolvency Act 1986), to exercise powers that include a power to sell or otherwise dispose of the interest in the property or the part of the property that includes the social housing and that appointment is in force.”

108C: Clause 22, page 21, line 18, leave out subsection (3) and insert—

“(3) If—

- (a) a registered provider’s interest in property that consists of or includes social housing was made subject to a mortgage, and
- (b) the interest in the property, or the interest in the part that includes the social housing, is sold or otherwise disposed of after the coming into force of section 21 by—
 - (i) the mortgagee, in the exercise of the mortgagee’s powers to enforce the mortgage,
 - (ii) a receiver appointed by the mortgagee or by the court as described in subsection (2)(b), or
 - (iii) a person appointed by the mortgagee as described in subsection (2)(c),

section 21 ceases to apply in relation to that social housing at the time of that sale or other disposal.”

108D: Clause 22, page 21, line 33, at end insert—

“() In subsections (2) and (3)—

“mortgage” includes a charge or other security;

“mortgagee” includes a person who is entitled to take steps to enforce a charge or other security.”

Amendments 108B to 108D agreed.

Amendments 109 and 109A not moved.

Clause 22, as amended, agreed.

Clause 23 agreed.

9 pm

Amendment 110

Moved by Lord McKenzie of Luton

110: After Clause 23, insert the following new Clause—

“Housing costs in the private rented sector

(1) The Secretary of State must, at a time no later than the end of the financial year ending March 2017 and at least once during the course of each of the subsequent four financial years, review the relationship between housing costs in the private rented sector and levels of local housing allowance.

(2) Where a review under subsection (1) shows that less than 30 per cent of private rented properties in each locality are affordable to persons in receipt of local housing allowance, the Secretary of State must by regulations under section 130A of the Social Security Contributions and Benefits Act 1992 (appropriate maximum housing benefit) amend the rates of local housing allowance.”

Lord McKenzie of Luton: My Lords, Amendment 110 stands in my name and that of my noble friend Lady Sherlock. We welcome the support of the noble Earl, Lord Listowel, who has added his name to it. The amendment moves us into somewhat different territory. It is about the adequacy of the local housing allowance system and the quarterly review of the extent to which at least 30% of private rented properties in each locality are made affordable by the LHA. It is an opportunity, in particular, to review the effect of the four-year freeze on the LHA.

Whereas the Government have sought in the Bill to ameliorate the costs of housing benefit for social housing by reducing rent levels, their efforts and those of the coalition Government have taken a different approach in the case of the private rented sector. For the PRS, the Government have progressively reduced the level of support provided by the LHA. This started by moving the LHA rate down from the median rent in any given area to the 30th percentile and was followed by national caps on categories of property, limited uprating, initially to 1% a year, and now a four-year freeze. As well as changes to the LHA which effectively substitute for the rent level in any calculation, there have been changes which affect the calculation of housing support itself: the abolition of the family element, the two-child policy and cuts to work allowances, not to mention, where appropriate, the benefit cap. That is happening at the same time as more people are looking to the PRS for housing and rents are increasing.

The private rented sector is growing out of all proportion to the UK's housing stock, and is expected to comprise more than one-third of the total stock by 2032. This growth has been stimulated in particular by the deregulation efforts in the Housing Act 1988 and the continuing shortfall under successive Governments of new housing provision. Research by Shelter highlighted that a third of renters are now families with children—those most affected by the volatility and uncertainty of the rental market. Nearly three-quarters of families

who rent are in work and would overwhelmingly like to own their own home but believe that they will never be able to afford it.

In a release just last week, Shelter set out recent findings of an online survey which showed that 32% of private renters have had to cut back on either heating or winter clothing to meet housing payments and 56% are struggling or falling behind with their rent. An earlier study by Shelter highlighted that more than half of local authorities in England have a median private rent for a two-bedroom home which costs more than 45% of median take-home pay in the area. Eight per cent of authorities have median rents that are 50% or more of median full-time take-home pay. This is before the 1% freeze begins to operate.

The test the amendment sets down is whether 30% of private rented properties in each locality are affordable to people whose housing support is based on the LHA. It implies that the 30% would be the lowest cost, the 30th percentile, because that was the central test considered appropriate before uprating was decoupled from actual rental levels, a change which has been deepened by the LHA freeze which, as we touched on, is to be visited on social rented housing in 2018.

As I said, the extent to which private sector rents are affordable depends on how the broad rental market area operates in practice, as well as the details of the current social security system, but the starting point is the actual level of the allowance, the rent equivalent. There is no doubt that at times of growing demand, inadequate supply and rising rents, a freezing of the LHA is likely to widen the gap between actual costs and the level of housing support.

Indeed, this is already happening, particularly in London, where London Councils recently published an analysis of the likely effect of the freeze which demonstrates that already less than 30% of private rented properties are affordable at the LHA rate. It suggested that only 5% to 10% of properties in some high-value parts of inner London might be affordable and that this could spread more widely around the capital. For 2015-16, a gap is already opening up between LHA rates and the 30th percentile. Based on government figures, in two-thirds of the broad rental market areas the 30th percentile rents for two-bedroom properties, for example, are already above the April 2015 LHA levels.

Does the Minister accept those figures? Unless rents are to come down, this shortfall will only grow. A clear consequence of this is that more and more people will uproot and move to cheaper areas, with all the consequences of that upheaval for families and their communities, both old and new. For some, the benefit cap will further make properties unaffordable, leading inexorably to homelessness and poverty. We cannot allow this to go on. This is a deepening crisis, which the Government need to address. The noble Lord, Lord Kerslake, has two amendments in this group. I may respond to them when I wind up. I beg to move.

The Earl of Listowel: My Lords, I am concerned that the Government's proposal may reduce the supply of housing or cause what housing is available to be of poorer quality. I go back to my earlier concerns about

[THE EARL OF LISTOWEL]

the poorest families. In her response, will the Minister give an assurance that this will not have the effect that I am concerned about, will not make more families homeless and will not lead to poor families living in poorer conditions and less well-maintained homes? I look forward to her response.

Lord Kerslake: My Lords, I shall speak to my Amendments 110A and 110B. I am conscious that we are reaching the end of a long process, so I shall keep my remarks short. These amendments go to a specific issue that needs addressing. They focus on giving flexibility and excepting social rent reductions for two types of new supplier: affordable rent suppliers and social tenancies. That does not address the whole of the issue that I spoke about earlier because the social housing model involves cross-subsidy. When housing associations look at new supply, they look at two things: their investment plan's overall viability and the viability of individual schemes. For schemes that are less profitable and more marginal, rent is crucial.

There is shared recognition in this House about the need for new supply of all types, including social housing. By giving flexibility by excepting new supply from the rent reduction policy and giving flexibility in the starting rates for these properties, it is very likely that some schemes that would have been put on the back-burner because of viability will go ahead. These amendments will cost very little because new supply is less than 2% of existing stock and therefore the cost in terms of benefits is very small, and the gain, in terms of new supply at the margin, will be considerable. These are two small amendments that will address the issue of new supply, give flexibility at local level to make decisions on rents and tip schemes that would otherwise not have been viable into viability and enable them to be built.

Baroness Evans of Bowes Park: My Lords, I shall start by addressing Amendment 110, which was tabled by the noble Baroness, Lady Sherlock, the noble Lord, Lord McKenzie, and the noble Earl, Lord Listowel. It would in effect reverse the summer Budget measure of applying a four-year freeze to housing benefit local housing allowance rates from 2016-17.

Between 2000 and 2010, expenditure on housing benefit doubled in cash terms, reaching £21 billion per year. If left unreformed, by 2014-15 housing benefit would have cost taxpayers £26 billion per year. This measure to freeze local housing allowance rates for four years will build on the reforms introduced in the last Parliament, which saved £4 billion and continue to deliver savings of around £2 billion a year. Savings from freezing local housing allowance rates are estimated to be around £655 million for Great Britain over the four-year period of the measure.

I will set out the process for setting the local housing allowance rates and what we already do to monitor the levels in comparison with market rates. Within DWP, local housing allowance rates are monitored each year to assess any divergences between the rates and local rents. Each autumn, the rent officer services provide DWP with rental data for all broad rental market areas for the 12 months up to the end of September.

This is used to review the rates, and in the past two years has been the basis for identifying which rates should be increased by the targeted affordability funding.

If any changes are needed to secondary legislation, such as setting out a schedule of which areas and rates might be increased by the targeted affordability funding, they need to be carried out during the autumn and laid before Parliament, observing the requisite timescales before the amendments come into force before the LHA determination date at the end of January each year.

I should add that the Secretary of State has the power to review the local housing allowance rates or to provide in regulations for the maximum housing benefit to be an amount other than these rates. These powers have been in place since the LHA scheme was introduced and were reinforced in the Welfare Reform Act. Noble Lords will be aware that this measure has already passed through secondary legislation and been agreed by the Delegated Legislation Committee in the other place. The order was not prayed against by Members of this House and was therefore not subject to a debate. I reassure noble Lords that, alongside the LHA rate, we will continue to publish at the end of January, as we have done previously, the 30th percentile of market rates in each area. The noble Lord, Lord McKenzie, asked about his figures. They are broadly right in terms of the figures that he asked about.

The first step is for a provider to determine what would have been the rate of formula rent for that social housing—I apologise to noble Lords; I do not think this is quite right. I have not responded to the question from the noble Lord, Lord Kerslake. Typically for me, I appear to be missing a page. I will now turn to Amendments 110A and 110B, tabled by the noble Lord, Lord Kerslake. I am grateful to him for bringing forward these amendments and giving me the opportunity to explain to the Committee the approach that the Government are taking regarding rent-setting for new tenancies.

Schedule 2 to the Bill sets out how maximum rent should be determined during the four years of rent reductions for tenancies that were not in place at the beginning of 8 July 2015. Different rules apply to existing and new social housing and affordable-rent housing, and they are set out in paragraphs 1 to 3 of Schedule 2 respectively. Rents for new social housing, excluding affordable-rent housing, may be set up to the social-rent rate. It may be helpful for me to explain in slightly more detail how the social-rent rate is calculated, which is set out in the Bill in paragraph 1(4) of Schedule 2. The first step is for a provider to determine what would have been the rate of formula rent for that social housing at the beginning of 8 July 2015. The Government's intention is to set that out in regulations that will mirror the formula for 2015-16, as set out in the rent standard guidance and the Government's guidance for rent. In this way we have sought to make the 1% rent-reduction policy work in a similar way to existing policy in so far as we can.

Noble Lords will be aware that formula rent takes into account relative property values and local earnings, the size of the property and an overall rent cap. Local circumstances are therefore taken into account in

determining what the rate of formula rent is. Once determined, the social-rent rate is found by then applying the appropriate annual reductions. But we do not think it appropriate to continue to allow providers of new general-needs housing the flexibility to set rents at up to 5% above formula. That flexibility was only ever intended to be taken up by general-needs housing providers on an exceptional basis and is now out of step with the Government's policy for rent reductions, which necessitates a more tightly-controlled approach. As I have explained, the social-rent rate will be closely aligned to the previous formula-rent policy, which took into account local conditions. Local property values and local earnings are in fact built into the formula.

For new tenancies of affordable-rent housing, paragraph 3 of Schedule 2 provides that the rent payable by that tenant should be set at no more than 80% of the amount that would be the market rent for that property, and that in the following years a 1% per annum reduction to that maximum rent applies. But this is a maximum rent, and guidance regarding other factors of rent setting, including local factors, remains in place. Housing which may be let on the affordable-rent basis will be identified as such by regulations under paragraph 4 of Schedule 2 to the Bill, and I can be clear that our intention is that this will reflect existing policy regarding properties that may be let at an affordable rent.

9.15 pm

Again, as my noble friend said earlier, we also made a commitment in the other place to allow rent setting for new tenancies in supported housing at up to 10% above the rate for general-needs housing. This is a positive measure which should help providers of supported accommodation for vulnerable people to continue to provide that important housing. The commitment was welcomed and it is a measure that we will bring in by regulations under Clause 26.

This group of amendments covers two quite separate and important areas of policy. I apologise again for flailing around slightly in the middle of my response, but I hope that, on the basis of the explanations I have provided, the noble Lord will be able to withdraw the amendment.

Lord McKenzie of Luton: My Lords, I thank the Minister for her reply. I should not worry too much about getting Box notes confused. I once read out a Box note that said "Don't go there". It is tucked away somewhere in *Hansard*, but I will not tell noble Lords where.

I thank the noble Lord, Lord Kerslake, for dealing with his amendments. The proposition he advanced is entirely reasonable—that new supply, which he said was less than 2% of the total, could be freed up from these provisions. It is a pity that the Government could not respond positively to that.

So far as the rest of the response was concerned, I am not sure that the Minister fundamentally dealt with the issue around the private rented sector and the effect of affordability, and that there is a widening gap between what the LHA reduces in terms of support and rent levels. In some respects that is forcing quite significant movements out of the capital, out of initially

lower-cost areas into even lower-cost areas, and the consequences of that for people's lives, lifestyles, their community, schooling for their kids and so many other issues is quite profound. I regret that the Government are not addressing that issue. However, perhaps in fairness to the Minister I ought to read the record, supplemented as appropriate by any correspondence she feels in retrospect it might be helpful to have. Having said that, I beg leave to withdraw the amendment.

Amendment 110 withdrawn.

Clauses 24 and 25 agreed.

Schedule 2: Further provision about social housing rents

Amendments 110A and 110B not moved.

Amendments 110C to 110E

Moved by Lord Freud

110C: Schedule 2, page 34, line 9, leave out sub-paragraph (2) and insert—

“(2) Part 1 does not apply in relation to social housing of a registered provider if, where the registered provider's interest in the property that consists of or includes the social housing is subject to a mortgage—

- (a) the mortgagee is in possession of the interest in the property or the part of the property that includes the social housing, in the exercise of the mortgagee's powers to enforce the mortgage,
- (b) a receiver has been appointed in relation to the interest in the property or the part of the property that includes the social housing by—
 - (i) the mortgagee, in the exercise of the mortgagee's powers to enforce the mortgage, or
 - (ii) the court, in connection with enforcing the mortgage, and that appointment is in force, or
- (c) a person has been appointed by the mortgagee, in the exercise of the mortgagee's powers to enforce the mortgage (including, in the case of a floating charge which relates to the interest in the property, the power under paragraph 14 of Schedule B1 to the Insolvency Act 1986), to exercise powers that include a power to sell or otherwise dispose of the interest in the property or the part of the property that includes the social housing and that appointment is in force.”

110D: Schedule 2, page 34, line 21, leave out sub-paragraph (3) and insert—

“(3) If—

- (a) a registered provider's interest in property that consists of or includes social housing was made subject to a mortgage, and
- (b) the interest in the property, or the interest in the part that includes the social housing, is sold or otherwise disposed of after the coming into force of Part 1 by—
 - (i) the mortgagee, in the exercise of the mortgagee's powers to enforce the mortgage,
 - (ii) a receiver appointed by the mortgagee or by the court as described in sub-paragraph (2)(b), or
 - (iii) a person appointed by the mortgagee as described in sub-paragraph (2)(c),

Part 1 ceases to apply in relation to that social housing at the time of that sale or other disposal.”

110E: Schedule 2, page 34, line 36, at end insert—

“() In sub-paragraphs (2) and (3)—

“mortgage” includes a charge or other security;

“mortgagee” includes a person who is entitled to take steps to enforce a charge or other security.”

Amendments 110C to 110E agreed.

Schedule 2, as amended, agreed.

Clause 26 agreed.

Amendments 110F to 110H

Moved by Lord Freud

110F: After Clause 26, insert the following new Clause—

“Implied terms

(1) A lease or other agreement by virtue of which a person is a tenant of a registered provider contains, by virtue of this subsection, an implied term enabling the registered provider to reduce the amount of rent payable by the tenant, without giving prior notice, where the reduction is made for the purpose of complying with a requirement imposed by or under section 21 or 26 or Part 1 of Schedule 2.

(2) Subsection (1) has effect notwithstanding any express provision in a lease or other agreement.

(3) Section 102 of the Housing Act 1985 (variation of terms of a secure tenancy) has effect subject to subsection (1).”

110G: After Clause 26, insert the following new Clause—

“Change of registered provider

(1) This section applies if—

(a) particular social housing of a registered provider becomes social housing of another registered provider (“the transferee”), and

(b) the social housing is subject to a tenancy that began before the social housing became the transferee’s social housing.

(2) Sections 21 to 26 and Schedule 2 have effect in relation to the amount of rent payable by the tenant under the tenancy as if—

(a) the transferee’s relevant years were the same as the initial registered provider’s relevant years, and

(b) rent payable by the tenant before the social housing became the transferee’s social housing were rent payable to the transferee in respect of such earlier periods.

(3) Subsection (4) applies if, immediately before the social housing became the transferee’s social housing, a requirement imposed by or under section 21 or 26 or Part 1 of Schedule 2 was disapplied or modified as regards the social housing—

(a) by a direction under section 23 or paragraph 6 of Schedule 2, or

(b) under section 26(4).

(4) If the social housing becomes the transferee’s social housing otherwise than at the beginning of a relevant year of the initial registered provider, the requirement continues not to apply or continues to apply as modified (as the case may be) until—

(a) the relevant year of the initial registered provider current when the social housing becomes the transferee’s social housing comes to an end, or

(b) if earlier, the tenancy comes to an end.

(5) In this section a reference to a relevant year of an initial registered provider includes, in the case of an initial registered provider that has ceased to exist, a reference to what would have been a relevant year of an initial registered provider if it had not ceased to exist.

(6) In this section “initial registered provider”, in relation to a tenancy of social housing, means the first registered provider which—

(a) was subject to a requirement imposed by or under section 21 or 26 or Part 1 of Schedule 2 as regards the tenancy, or

(b) would have been so subject but for its being disapplied—

(i) by a direction under section 23 or paragraph 6 of Schedule 2 or under section 26(4), or

(ii) by or under section 22 or paragraph 5 of Schedule 2.”

110H: After Clause 26, insert the following new Clause—

“Transitional provision

(1) This section applies if, immediately before the rent restriction period ends—

(a) a lease or other agreement by virtue of which a person is a tenant of a registered provider contains provision under which rent will or may be increased with effect from a date or dates specified in the lease or other agreement (“rent review dates”), and

(b) the registered provider is subject to a requirement imposed by or under section 21 or 26 or Part 1 of Schedule 2 as regards the tenant.

(2) The lease or other agreement contains, by virtue of this subsection, an implied term enabling the registered provider to treat a date that falls—

(a) after the rent restriction period ends, and

(b) before the first rent review date to occur after the rent restriction period ends,

as if that date were the first rent review date to occur after the rent restriction period ends (instead of the date provided for in the lease or other agreement).

(3) Subsection (4) applies if, under the provision mentioned in subsection (1)(a), the intervals between rent review dates may only be intervals of 51 weeks or more.

(4) The lease or other agreement contains, by virtue of this subsection, an implied term enabling the registered provider, if it acts as mentioned in subsection (2), to treat the relevant date as if it were the second rent review date to occur after the rent restriction period ends (instead of the date provided for in the lease or other agreement).

(5) In subsection (4) “the relevant date” means the date that precedes the second rent review date by the same period as the date treated under subsection (2) as the first rent review date precedes the first rent review date provided for in the lease or other agreement.

(6) The lease or other agreement contains, by virtue of this subsection, an implied term requiring the registered provider, if it acts as mentioned in subsection (4), to treat the date that precedes each subsequent rent review date by the same period as if it were that subsequent rent review date (instead of the date provided for in the lease or other agreement).

(7) The lease or other agreement contains, by virtue of this subsection, an implied term providing that, if the registered provider treats an earlier date as if it were a rent review date because of a term implied by subsection (2), (4) or (6), other provision in the lease or other agreement is to have effect accordingly.

(8) Nothing in this section prevents the registered provider and the tenant varying or excluding by agreement a term implied by virtue of this section.

(9) Section 102 of the Housing Act 1985 (variation of terms of a secure tenancy) has effect subject to subsections (2), (4), (6) and (7).

(10) In this section “rent restriction period”, in relation to a tenant of a registered provider, means the period during which the registered provider might be subject to a requirement imposed by or under section 21 or 26 or Part 1 of Schedule 2 as regards the tenant.”

Amendments 110F to 110H agreed.

Clause 27: Rent standards*Amendment 110J**Moved by Lord Freud***110J:** Clause 27, page 25, line 10, after “26” insert “and (Change of registered provider)”*Amendment 110J agreed.**Clause 27, as amended, agreed.**Clauses 28 to 30 agreed.***Clause 31: Commencement***Amendments 110K to 110M**Moved by Lord Freud***110K:** Clause 31, page 27, line 21, at end insert—

“() section 21(3) and (4);”

110L: Clause 31, page 27, line 23, leave out first “paragraph 6” and insert “paragraphs 6 and 10”**110M:** Clause 31, page 27, line 23, leave out second “paragraph 6” and insert “paragraphs 6 and 10”*Amendments 110K to 110M agreed.**Amendment 111 not moved.**Clause 31, as amended, agreed.**Clause 32 agreed.**House resumed.**Bill reported with amendments.**House adjourned at 9.20 pm.*

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